Public Law 106–554
106th Congress

An Act

Making consolidated appropriations for the fiscal year ending September 30, 2001, and for other purposes.

Dec. 21, 2000
[H.R. 4577]

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

Consolidated Appropriations Act, 2001. Incorporation by reference.

SECTION 1. (a) The provisions of the following bills of the 106th Congress are hereby enacted into law:

(1) H.R. 5656, as introduced on December 14, 2000.
(2) H.R. 5657, as introduced on December 14, 2000.
(3) H.R. 5658, as introduced on December 14, 2000.
(4) H.R. 5666, as introduced on December 15, 2000, except that the text of H.R. 5666, as so enacted, shall not include section 123 (relating to the enactment of H.R. 4904).
(5) H.R. 5660, as introduced on December 14, 2000.
(6) H.R. 5661, as introduced on December 14, 2000.
(7) H.R. 5662, as introduced on December 14, 2000.
(8) H.R. 5663, as introduced on December 14, 2000.
(9) H.R. 5667, as introduced on December 15, 2000.

Publication. 1 USC 112 note.

(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end appendixes setting forth the texts of the bills referred to in subsection (a) of this section and the text of any other bill enacted into law by reference by reason of the enactment of this Act.

SEC. 2. (a) 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, legislation enacted in section 505 of the Department of Transportation and Related Agencies Appropriations Act, 2001, section 312 of the Legislative Branch Appropriations Act, 2001, titles X and XI of H.R. 5548 (106th Congress) as enacted by H.R. 4942 (106th Congress), division B of H.R. 5666 (106th Congress) as enacted by this Act, and sections 1(a)(5) through 1(a)(9) of this Act 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.

(b) In preparing the final sequestration report required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2001, in addition to the information required by that section, the Director of the Office of Management and Budget shall change any balance of direct spending

See Endnote on 114 Stat. 2764.

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and receipts legislation for fiscal year 2001 under section 252 of that Act to zero.

(c) This Act may be cited as the "Consolidated Appropriations Act, 2001".

Approved December 21, 2000.

LEGISLATIVE HISTORY—H.R. 4577 (S. 2553):

HOUSE REPORTS: Nos. 106–645 (Comm. on Appropriations) and 106–1033 (Comm. of Conference).

SENATE REPORTS: No. 106–293 accompanying S. 2553 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 146 (2000):

June 8, 12–14, considered and passed House.

June 22, 23, 26–30, considered and passed Senate, amended.

Dec. 15, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Dec. 21, Presidential remarks and statement.

ENDNOTE: The following appendixes were added pursuant to the provisions of section 1 of this Act (114 Stat. 2763).

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APPENDIX A—H.R. 5656

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, 2001, 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; the Women in Apprenticeship and Nontraditional Occupations Act; and the National Skill Standards Act of 1994; $3,207,805,000 plus reimbursements, of which $1,808,465,000 is available for obligation for the period July 1, 2001 through June 30, 2002; of which $1,377,965,000 is available for obligation for the period April 1, 2001 through June 30, 2002, including $1,102,965,000 to carry out chapter 4 of the Workforce Investment Act and $275,000,000 to carry out section 169 of such Act; and of which $20,375,000 is available for the period July 1, 2001 through June 30, 2004 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, and $3,500,000 shall be for carrying out the National Skills Standards Act of 1994: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds provided to carry out section 171(d) of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That funding provided to carry out projects under section 171 of the Workforce Investment Act of 1998 that are identified in the Conference Agreement, shall not be subject to the requirements of section 171(b)(2)(B) of such Act, the requirements of section 171(c)(4)(D) of such Act, or the joint funding requirements of sections 171(b)(2)(A) and 171(c)(4)(A) of such Act: *Provided further*, That funding appropriated herein for Dislocated Worker Employment and Training Activities under section 132(a)(2)(A) of the Workforce Investment Act of 1998 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 of the funds made available for Job Corps operating expenses in the Department of Labor Appropriations Act, 2000, as enacted by section 1000(a)(4) of Public Law 106–113, $586,487 shall be paid to the city of Vergennes, Vermont in settlement of the city's claim: *Provided further*, That $4,600,000 provided herein for dislocated worker employment and training activities shall be made available to the New Mexico Telecommunications Call Center Training Consortium for training in telecommunications-related occupations.

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, 2001 through June 30, 2002, and of which $100,000,000 is available for the period October 1, 2001 through June 30, 2004, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

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

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $406,550,000, 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, $193,452,000, together with not to exceed $3,172,246,000 (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, 2001, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2003; and of which $193,452,000, 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, 2001 through June 30, 2002, 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 2001 is projected by the Department of Labor to exceed 2,396,000, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance programs, may be obligated in contracts, grants, or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2002, $435,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2001, 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, $110,651,000, including $6,431,000 to support up to 75 full-time equivalent staff, the majority of which will be term Federal appointments lasting no more than 1 year, 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, $107,832,000.

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, 2001, for such Corporation: *Provided*, That not to exceed $11,652,000 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 nonadministrative 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, $361,491,000, together with $1,985,000 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, $56,000,000 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, 2000, 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, 2001: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $34,910,000 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, medical bill review, and periodic roll management, in support of Federal Employees' Compensation Act administration, $23,371,000; (2) for conversion to a paperless office, $7,005,000; (3) for communications redesign, $1,750,000; (4) for information technology maintenance and support, $2,784,000; and (5) 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.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,028,000,000, of which $975,343,000 shall be available until September 30, 2002, for payment of all benefits as 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, and of which $30,393,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $21,590,000 for transfer to Departmental Management, Salaries and Expenses, $318,000 for transfer to Departmental Management, Office of Inspector General, and $356,000 for payment into miscellaneous receipts for the expenses of the Department of the Treasury, for expenses of operation and administration of the Black Lung Benefits program as authorized

by section 9501(d)(5) of that Act: *Provided*, That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $425,983,000, including not to exceed $88,493,000 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, 2001, 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, $246,747,000, 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 2001 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, $374,327,000, together with not to exceed $67,257,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund; and $10,000,000 which shall be available for obligation for the period July 1, 2001 through June 30, 2002, 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, of which the funds designated to carry out bilateral assistance under the international child labor initiative shall be available for obligation through September 30, 2002, 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, $380,529,000; 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.): *Provided further*, That beginning in fiscal year 2001, there is established in the Department of Labor an office of disability employment policy which shall, under the overall direction of the Secretary, provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities. Such office shall be headed by an Assistant Secretary: *Provided further*, That of amounts provided under this head, not more than $23,002,000 is for this purpose.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $186,913,000 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, 2001. To carry out the Stewart B. McKinney Homeless Assistance

Act and section 168 of the Workforce Investment Act of 1998, $24,800,000, of which $7,300,000 shall be available for obligation for the period July 1, 2001 through June 30, 2002.

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, $50,015,000, together with not to exceed $4,770,000, 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. Section 403(a)(5)(C)(viii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(viii)) (as amended by section 801(b)(1)(A) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is amended by striking "3 years" and inserting "5 years".

SEC. 104. No funds appropriated in this Act or any other Act making appropriations for fiscal year 2001 may be used to implement or enforce the proposed and final regulations appearing in 65 Fed. Reg. 43528–43583, regarding temporary alien labor certification applications and petitions for admission of nonimmigrant workers, or any similar or successor rule with an effective date prior to October 1, 2001: *Provided*, That nothing in this section shall prohibit the development or revision of such a rule, or the publication of any similar or successor proposed or final rule, or the provision of training or technical assistance, or other activities necessary and appropriate in preparing to implement such a rule with an effective date after September 30, 2001.

SEC. 105. Section 218(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1188(c)(4)) is amended by adding at the end the following new sentence: "The determination as to whether the housing furnished by an employer for an H–2A worker meets the requirements imposed by this paragraph must be made prior to the date specified in paragraph (3)(A) by which the Secretary of Labor is required to make a certification described in subsection (a)(1) with respect to a petition for the importation of such worker.".

SEC. 106. Section 286(s)(6) of the Immigration and Naturalization Act (8 U.S.C. 1356(s)(6)) is amended by inserting "and section 212(a)(5)(A)" after the second reference to "section 212(n)(1)".

SEC. 107. (a) Section 403(a)(5) of the Social Security Act (as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is amended by striking subparagraph (E) and redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively.

(b) The Social Security Act (as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is further amended as follows:

(1) Section 403(a)(5)(A)(i) (42 U.S.C. 603(a)(5)(A)(i)) is amended by striking "subparagraph (I)" and inserting "subparagraph (H)".

(2) Subclause (I) of each of subparagraphs (A)(iv) and (B)(v) of section 403(a)(5) (42 U.S.C. 603(a)(5)(A)(iv)(I) and (B)(v)(I)) is amended—

(A) in item (aa)—

(i) by striking "(I)" and inserting "(H)"; and

(ii) by striking "(G), and (H)" and inserting "and (G)"; and

(B) in item (bb), by striking "(F)" and inserting "(E)".

(3) Section 403(a)(5)(B)(v) (42 U.S.C. 603(a)(5)(B)(v)) is amended in the matter preceding subclause (I) by striking "(I)" and inserting "(H)".

(4) Subparagraphs (E), (F), and (G)(i) of section 403(a)(5) (42 U.S.C. 603(a)(5)), as so redesignated by subsection (a) of this section, are each amended by striking "(I)" and inserting "(H)".

(5) Section 412(a)(3)(A) (42 U.S.C. 612(a)(3)(A)) is amended by striking "403(a)(5)(I)" and inserting "403(a)(5)(H)".

(c) Section 403(a)(5)(H)(i)(II) of such Act (42 U.S.C. 603(a)(5)(H)(i)(II)) (as redesignated by subsection (a) of this section and as amended by section 806(b) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(4) of Public Law 106–113)) is further amended by striking "$1,450,000,000" and inserting "$1,400,000,000".

(d) The amendments made by subsections (a), (b), and (c) of this section shall take effect on October 1, 2000.

This title may be cited as the "Department of Labor Appropriations Act, 2001".

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 section 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, and the Poison Control Center Enhancement and Awareness Act, $5,525,476,000, of which $226,224,000 shall

be available for the construction and renovation of health care and other facilities, and of which $25,000,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: *Provided*, That 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, $253,932,000 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 $589,000,000 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 under this heading, $700,000 shall be for the American Federation of Negro Affairs Education and Research Fund of Philadelphia, $900,000 shall be for the Des Moines University Osteopathic Medical Center, $250,000 shall be for the University of Alaska, Anchorage, to train Alaska Natives as psychologists, $900,000 shall be for Northeastern University in Boston, Massachusetts, to train doctors to serve in low-income communities, $500,000 shall be for the University of Alaska, Anchorage, to recruit and train nurses in rural areas, and $230,000 shall be for the Illinois Poison Center: *Provided further*, That, notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $113,728,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act, of which $5,000,000 is for Columbia Hospital for Women Medical Center in Washington, D.C., to support community outreach programs for women, $5,000,000 is for continuation of the traumatic brain injury State demonstration projects, and $100,000 is for St. Joseph's Health Services of Rhode Island for the Providence Smiles dental program for low-income children.

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, 2001, and shall remain available until September 30, 2002: *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

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, $3,679,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $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, $3,868,027,000, of which $175,000,000 shall remain available until expended for the facilities master plan 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, and of which $104,527,000 for international HIV/AIDS programs shall remain available until September 30, 2002: *Provided*, That in addition to amounts provided herein, up to

$71,690,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Center for Health Statistics Surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used 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: *Provided further*, That funds obligated for influenza vaccine stockpile in fiscal year 2000 and fiscal year 2001 shall be considered as appropriated under section 3 of Public Law 101–502.

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, $3,757,242,000.

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, $2,299,866,000.

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, $306,448,000.

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, $1,303,385,000.

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, $1,176,482,000.

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, $2,043,208,000.

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, $1,535,823,000.

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, $976,455,000.

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, $510,611,000.

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, $502,549,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $786,039,000.

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, $396,687,000.

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, $300,581,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $104,370,000.

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, $340,678,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $781,327,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,107,028,000.

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, $382,384,000.

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, $817,475,000: *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 $75,000,000 shall be for extramural facilities construction grants.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $50,514,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $246,801,000, of which $4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2001, 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.

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, $89,211,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $130,200,000.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $213,581,000, of which $48,271,000 shall be for the Office of AIDS Research: *Provided*, That funding shall be available for the purchase of not to exceed 20 passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in

National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the National Institutes of Health Management Fund shall remain available for 1 fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to $500,000 shall be available to carry out section 499 of the Public Health Service Act: *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, $153,790,000, to remain available until expended, of which $47,300,000 shall be for the National Neuroscience Research Center: *Provided*, That notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the first phase of the National Neuroscience Research Center 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.

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, $2,958,001,000, of which $24,605,000 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $104,963,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $164,980,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $93,586,251,000, to remain available until expended.

For making, after May 31, 2001, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2001 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 2002, $36,207,551,000, 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 sections 217(g) and 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, $70,381,600,000.

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 $2,246,326,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and 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 $18,000,000 appropriated under this heading for the managed care system redesign shall remain available until expended: *Provided further*, That $20,000,000 of the amount available for research, demonstration, and evaluation activities shall be available to continue carrying out demonstration projects on Medicaid coverage of community-based attendant care services for people with disabilities which ensures maximum control by the consumer to select and manage their attendant care services: *Provided further*, That the Secretary of Health and Human Services is directed to enter into an agreement with the Mind-Body Institute of Boston, Massachusetts, to conduct a demonstration of a lifestyle modification program: *Provided further*, That $2,800,000 of the amount available for research, demonstration, and evaluation activities shall be awarded for administration, evaluation, quality monitoring and peer review of this lifestyle modification demonstration: *Provided further*, That $2,800,000 of the amount available for research, demonstration, and evaluation activities shall be awarded

to a joint application from the University of Pittsburgh, Case Western Reserve in Cleveland, Ohio, and Mt. Sinai Hospital in Miami, Florida, to use integrated nursing services and technology to implement daily monitoring of congestive heart failure patients in underserved populations in accordance with established clinical guidelines: *Provided further*, That $500,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the University of Pittsburgh Medical Center and University of Pennsylvania for a study of the efficacy of surgical versus non-surgical management of abdominal aneurysms: *Provided further*, That $650,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the Vascular Surgery Outcome Initiative at Dartmouth College: *Provided further*, That up to $300,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the United States-Mexico Border Counties Coalition for a study to determine the unreimbursed costs incurred to treat undocumented aliens for medical emergencies in southwest border States, their border counties, and hospitals within the jurisdiction of these States and counties: *Provided further*, That $1,700,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the AIDS Healthcare Foundation in Los Angeles for a demonstration of residential and outpatient treatment facilities: *Provided further*, That $350,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the Cook County, Illinois Bureau of Health for the Asthma Champion Initiative demonstration to reduce morbidity and mortality from asthma in high prevalence areas: *Provided further*, That $1,000,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the West Virginia University School of Medicine's Eye Center to test interventions and improve the quality of life for individuals with low vision, with a particular focus on the elderly: *Provided further*, That $1,000,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the Iowa Department of Public Health for the establishment and operation of a mercantile prescription drug purchasing cooperative or non-profit corporation demonstration: *Provided further*, That $691,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to Ohio State University to determine the benefits of compliance packaging: *Provided further*, That $855,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to Children's Hospice International for a demonstration project to provide a continuum of care for children with life-threatening conditions and their families: *Provided further*, That $921,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to Equip for Equality for a demonstration project to document the impact of an independent investigative unit that will examine deaths or other serious allegations of abuse and neglect of people with disabilities at facilities in Illinois: *Provided further*, That $1,000,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to Duke University Medical Center to demonstrate the potential savings in the Medicare program of a reimbursement system based on preventative care: *Provided further*, That $1,843,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to Bucks County,

Pennsylvania, for a health improvement project: *Provided further*, That $255,000 of the amount available for research, demonstration, and evaluation activities shall be awarded to the LA Care Health Plan in Los Angeles, California, for a demonstration program to improve clinical data coordination among Medicaid providers: *Provided further*, That $646,000 of the amount available for research, demonstration, and evaluation activities shall be for the Shelby County Regional Medical Center to establish a Master Patient Index to determine patient Medicaid/TennCare eligibility: *Provided further*, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2001 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 2001, 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), $2,441,800,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2002, $1,000,000,000, 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 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, in addition to amounts already appropriated for fiscal year 2001, $300,000,000.

For making payments under title XXVI of the Omnibus 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 a formal 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), $423,109,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act for fiscal year 2001 shall be available for the costs of assistance provided and other activities through September 30, 2003: *Provided further*, That up to $5,000,000 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), in addition to amounts already appropriated for fiscal year 2001, $817,328,000, such funds shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That of the funds appropriated for fiscal year 2001, $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 of the funds appropriated for fiscal year 2001, 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 of the funds appropriated for fiscal year 2001, $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, $1,725,000,000: *Provided*, That notwithstanding section 2003(c) of such Act, as amended, the amount specified for allocation under such section for fiscal year 2001 shall be $1,725,000,000: *Provided further*, That, notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent

specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

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, 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), 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 and section 126 and titles IV and V of Public Law 100–485, $7,956,345,000, of which $43,000,000, to remain available until September 30, 2002, 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 1999 and 2000; of which $682,876,000 shall be for making payments under the Community Services Block Grant Act; and of which $6,200,000,000 shall be for making payments under the Head Start Act, of which $1,400,000,000 shall become available October 1, 2001 and remain available through September 30, 2002: *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 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.

Funds appropriated for fiscal year 2001 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 2001 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.

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, $4,863,100,000.

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 2002, $1,735,900,000.

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, $1,103,135,000, of which $5,000,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions: *Provided*, That notwithstanding section 308(b)(1) of the Older Americans Act of 1965, as amended, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995.

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, $285,224,000, 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 further*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $10,377,000 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 no funds shall be obligated for minority AIDS prevention and treatment activities until the Department of Health and Human Services submits an operating plan to the House and Senate Committees on Appropriations.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,849,000: *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, $24,742,000, 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, $16,738,000.

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.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease and chemical threats to civilian populations, $241,231,000: *Provided*, That this amount is distributed as follows: Centers for Disease Control and Prevention, $181,131,000, of which $32,000,000 shall be for the Health Alert Network and $18,040,000 shall be for the continued study of the anthrax vaccine; and Office of Emergency Preparedness, $60,100,000.

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 399L(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

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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.

(TRANSFER OF FUNDS)

SEC. 206. 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. 207. 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. 208. 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. 209. 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. 210. 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. 211. 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. 212. 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, and 2000" and inserting "1997, 1998, 1999, 2000, and 2001"; and

(B) in subsection (e), by striking "October 1, 2000" each place it appears and inserting "October 1, 2001"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking "September 30, 2000" and inserting "September 30, 2001".

SEC. 213. None of the funds provided in this Act or in any other Act making appropriations for fiscal year 2001 may be used to administer or implement in Arizona or in the Kansas City, Missouri or in the Kansas City, Kansas area the Medicare Competitive Pricing Demonstration Project (operated by the Secretary of Health and Human Services).

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. 300x–26) if such State certifies to the Secretary of Health and Human Services by March 1, 2001 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 2001 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 2000, 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 2000 State expenditures and all fiscal year 2001 obligations for tobacco prevention and compliance activities by program activity by July 31, 2001.

(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, 2001.

(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. Section 448 of the Public Health Service Act (42 U.S.C. 285g) is amended by inserting "gynecologic health," after "with respect to".

SEC. 216. None of the funds appropriated under this Act shall be expended by the National Institutes of Health on a contract for the care of the 288 chimpanzees acquired by the National Institutes of Health from the Coulston Foundation, unless the contractor is accredited by the Association for the Assessment and Accreditation of Laboratory Animal Care International or has a Public Health Services assurance, and has not been charged multiple times with egregious violations of the Animal Welfare Act: *Provided*, That the requirements of section 481(A)(e)(1) shall not apply to funds awarded to nonhuman primate research facilities of special interest to NIH.

SEC. 217. No grants may be awarded under the first paragraph under the heading "Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services" in chapter 4 of title II of the Emergency Supplemental Act, 2000 (Public Law 106–246, division B) until March 1, 2001.

SEC. 218. (a) The second sentence of section 5948(d) of title 5, United States Code, is amended to read as follows: "No agreement shall be entered into under this section later than September 30, 2005, nor shall any agreement cover a period of service extending beyond September 30, 2007.".

(b) Section 3 of the Federal Physicians Comparability Allowance Act of 1978 (5 U.S.C. 5948 note) is amended by striking "September 30, 2002" and inserting "September 30, 2007".

SEC. 219. (a) Congress makes the following findings:

(1) Organ procurement organizations play an important role in the effort to increase organ donation in the United States.

(2) The current process for the certification and recertification of organ procurement organizations conducted by the Department of Health and Human Services has created a level of uncertainty that is interfering with the effectiveness of organ procurement organizations in raising the level of organ donation.

(3) The General Accounting Office, the Institute of Medicine, and the Harvard School of Public Health have identified substantial limitations in the organ procurement organization certification and recertification process and have recommended changes in that process.

(4) The limitations in the recertification process include:

(A) An exclusive reliance on population-based measures of performance that do not account for the potential in the population for organ donation and do not permit consideration of other outcome and process standards that would more accurately reflect the relative capability and performance of each organ procurement organization.

(B) A lack of due process to appeal to the Secretary of Health and Human Services for recertification on either substantive or procedural grounds.

(5) The Secretary of Health and Human Services has the authority under section 1138(b)(1)(A)(i) of the Social Security Act (42 U.S.C. 1320b–8(b)(1)(A)(i)) to extend the period for recertification of an organ procurement organization from 2

to 4 years on the basis of its past practices in order to avoid the inappropriate disruption of the nation's organ system.

(6) The Secretary of Health and Human Services can use the extended period described in paragraph (5) for recertification of all organ procurement organizations to—

(A) develop improved performance measures that would reflect organ donor potential and interim outcomes, and to test these measures to ensure that they accurately measure performance differences among the organ procurement organizations; and

(B) improve the overall certification process by incorporating process as well as outcome performance measures, and developing equitable processes for appeals.

(b) Section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)) is amended—

(1) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively;

(2) by realigning the margin of subparagraph (F) (as so redesignated) so as to align with subparagraph (E) (as so redesignated); and

(3) by inserting after subparagraph (C) the following:

"(D) notwithstanding any other provision of law, has met the other requirements of this section and has been certified or recertified by the Secretary within the previous 4-year period as meeting the performance standards to be a qualified organ procurement organization through a process that either—

"(i) granted certification or recertification within such 4-year period with such certification or recertification in effect as of January 1, 2000, and remaining in effect through the earlier of—

"(I) January 1, 2002; or

"(II) the completion of recertification under the requirements of clause (ii); or

"(ii) is defined through regulations that are promulgated by the Secretary by not later than January 1, 2002, that—

"(I) require recertifications of qualified organ procurement organizations not more frequently than once every 4 years;

"(II) rely on outcome and process performance measures that are based on empirical evidence, obtained through reasonable efforts, of organ donor potential and other related factors in each service area of qualified organ procurement organizations;

"(III) use multiple outcome measures as part of the certification process; and

"(IV) provide for a qualified organ procurement organization to appeal a decertification to the Secretary on substantive and procedural grounds;".

SEC. 220. (a) In order for the Centers for Disease Control and Prevention to carry out international HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2001, 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, subject to the limitations set forth in subsection (b), and

(2) enter into reimbursable agreements with the Department of State using any funds appropriated to the Department of Health and Human Services, for the purposes for which the funds were appropriated in accordance with authority granted to the Secretary of Health and Human Services or under authority governing the activities of the Department of State.

(b) In exercising the authority set forth in subsection (a)(1), the Secretary of Health and Human Services—

(1) shall not award contracts for performance of an inherently governmental function; and

(2) shall follow otherwise applicable Federal procurement laws and regulations to the maximum extent practicable.

SEC. 221. Notwithstanding any other provision of law, the Director, National Institutes of Health, may enter into and administer a long-term lease for facilities for the purpose of providing laboratory, office and other space for biomedical and behavioral research at the Bayview Campus in Baltimore, Maryland: *Provided*, That the House and Senate Appropriations Committees will be notified of the terms and conditions of the lease upon its execution.

SEC. 222. Of the funds appropriated in this Act for the National Institutes of Health, $5,800,000 shall be transferred to the Office of the Secretary, General Departmental Management to support the newly established Office for Human Research Protections.

SEC. 223. Section 487E(a)(1) of the Public Health Service Act is amended by striking "as employees of the National Institutes of Health".

SEC. 224. 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. 225. The National Neuroscience Research Center to be constructed on the National Institutes of Health Bethesda campus is hereby named the John Edward Porter Neuroscience Research Center.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 2001".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by title IV of the Goals 2000: Educate America Act as in effect prior to September 30, 2000, and sections 3122, 3132, 3136, and 3141, parts B, C, and D of title III, and section 10105 and part I of title X of the Elementary and Secondary Education Act of 1965, $1,880,710,000, of which $38,000,000 shall be for the Goals 2000: Educate America Act, and of which $191,950,000 shall be for section 3122: *Provided*, That up to one-half of 1 percent of the amount available under section 3132 shall be set aside for the outlying areas, to be distributed on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: *Provided further*, That if any State educational agency does not apply for a grant under section 3132, that State's allotment under section

3131 shall be reserved by the Secretary for grants to local educational agencies in that State that apply directly to the Secretary according to the terms and conditions published by the Secretary in the Federal Register: *Provided further*, That with respect to all funds appropriated to carry out section 10901 et seq. in this Act, the Secretary shall strongly encourage applications for grants that are to be submitted jointly by a local educational agency (or a consortium of local educational agencies) and a community-based organization that has experience in providing before- and after-school services and all applications submitted to the Secretary shall contain evidence that the project contains elements that are designed to assist students in meeting or exceeding State and local standards in core academic subjects, as appropriate to the needs of participating children: *Provided further*, That $125,000,000, which shall become available on July 1, 2001, and remain available through September 30, 2002, shall be available to support activities under section 10105 of part A of title X of the Elementary and Secondary Education Act of 1965, of which up to 6 percent shall become available October 1, 2000, and be available for evaluation, technical assistance, school networking, peer review of applications, and program outreach activities: *Provided further*, That funds made available to local educational agencies under this section shall be used only for activities related to establishing smaller learning communities in high schools: *Provided further*, That $46,328,000 of the funds available to carry out section 3136 of the Elementary and Secondary Education Act of 1965, $8,768,000 of the funds available to carry out part B of title III of that Act and $20,614,000 of the funds available to carry out part I of title X of that Act shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act of 1965, $9,532,621,000, of which $2,731,921,000 shall become available on July 1, 2001, and shall remain available through September 30, 2002, and of which $6,758,300,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002, for academic year 2001–2002: *Provided*, That $7,332,721,000 shall be available for basic grants under section 1124: *Provided further*, That $225,000,000 of these funds shall be allocated among the States in the same proportion as funds are allocated among the States under section 1122, to carry out section 1116(c): *Provided further*, That 100 percent of these funds shall be allocated by States to local educational agencies for the purposes of carrying out section 1116(c): *Provided further*, That all local educational agencies receiving an allocation under the preceding proviso, and all other local educational agencies that are within a State that receives funds under part A of title I of the Elementary and Secondary Education Act of 1965 (other than a local educational agency within a State receiving a minimum grant under section 1124(d) or 1124A(a)(1)(B) of such Act), shall provide all students enrolled in a school identified under section 1116(c) with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under section

1116(c), unless such option to transfer is prohibited by State law, or local law, which includes school board-approved local educational agency policy: *Provided further*, That if the local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide all students with the option to transfer to another public school, and after giving notice to the parents of children affected that it is not possible, consistent with State and local law, to accommodate the transfer request of every student, the local educational agency shall permit as many students as possible (who shall be selected by the local educational agency on an equitable basis) to transfer to a public school that has not been identified for school improvement under section 1116(c): *Provided further*, That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 2000, to obtain updated local educational agency level census poverty data from the Bureau of the Census: *Provided further*, That $1,364,000,000 shall be available for concentration grants under section 1124A: *Provided further*, That grant awards under sections 1124 and 1124A of title I of the Elementary and Secondary Education Act of 1965 shall be not less than the greater of 100 percent of the amount each State and local educational agency received under this authority for fiscal year 2000 or the amount such State and local educational agency would receive if $6,883,503,000 for Basic Grants and $1,222,397,000 for Concentration Grants were allocated in accordance with section 1122(c)(3) of title I: *Provided further*, That notwithstanding any other provision of law, grant awards under section 1124A of title I of the Elementary and Secondary Education Act of 1965 shall be made to those local educational agencies that received a Concentration Grant under the Department of Education Appropriations Act, 2000, but are not eligible to receive such a grant for fiscal year 2001: *Provided further*, That the Secretary shall not take into account the hold harmless provisions in this section in determining State allocations under any other program administered by the Secretary in any fiscal year: *Provided further*, That $8,900,000 shall be available for evaluations under section 1501 and not more than $8,500,000 shall be reserved for section 1308, of which not more than $3,000,000 shall be reserved for section 1308(d): *Provided further*, That $210,000,000 shall be available under section 1002(g)(2) to demonstrate effective approaches to comprehensive school reform to be allocated and expended in accordance with the instructions relating to this activity in the statement of the managers on the conference report accompanying Public Law 105–78 and in the statement of the managers on the conference report accompanying Public Law 105–277: *Provided further*, That in carrying out this initiative, the Secretary and the States shall support only approaches that show the most promise of enabling children served by title I to meet challenging State content standards and challenging State student performance standards based on reliable research and effective practices, and include an emphasis on basic academics and parental involvement.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $993,302,000, of which $882,000,000 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), $12,802,000 shall be for construction under section 8007, $40,500,000 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: *Provided*, That $6,802,000 of the funds for section 8007 shall be available for the local educational agencies and in the amounts specified in the statement of the managers on the conference report accompanying this Act: *Provided further*, That from the amount appropriated for section 8002, the Secretary shall treat as timely filed, and shall process for payment, an application for a fiscal year 1999 payment from Academy School District 20, Colorado, under that section if the Secretary has received that application not later than 30 days after the enactment of this Act: *Provided further*, That the Secretary of Education shall consider the local educational agency serving the Kadoka School District, 35–1, in South Dakota, eligible for payments under section 8002 for fiscal year 2001 and each succeeding fiscal year, with respect to land in Washabaugh and Jackson Counties, South Dakota, that is owned by the Department of Defense and used as a bombing range: *Provided further*, That from the amount appropriated for section 8002, the Secretary shall first increase the payment of any local educational agency that was denied funding or had its payment reduced under that section for fiscal year 1998 due to section 8002(b)(1)(C) to the amount that would have been made without the limitation of that section: *Provided further*, That from the amount appropriated for section 8002, $500,000 shall be for subsection 8002(j).

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV, V–A and B, VI, IX, X, and XIII of the Elementary and Secondary Education Act of 1965 ("ESEA"); the McKinney-Vento Homeless Assistance Act; and the Civil Rights Act of 1964 and part B of title VIII of the Higher Education Amendments of 1998; $4,872,084,000, of which $2,403,750,000 shall become available on July 1, 2001, and remain available through September 30, 2002, and of which $1,765,000,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002 for academic year 2001–2002: *Provided*, That $485,000,000 shall be available for Eisenhower professional development State grants under part B of title II of the Elementary and Secondary Education Act of 1965: *Provided further*, That each local educational agency shall use funds in excess of the allocation it received under such part for the preceding fiscal year to improve teacher quality by reducing the percentage of teachers who do not have State certification or are certified through emergency or provisional means; are teaching out of field in some or all of the subject areas and grade levels in which they teach; or who lack sufficient content knowledge to teach effectively in the areas they teach to obtain that knowledge: *Provided further*, That the local educational agency may also use such excess funds for: activities authorized under section 2210 of the Elementary and Secondary Education Act of 1965; mentoring programs for new teachers; providing opportunities for teachers to attend multi-week institutes, such as those provided in the summer months, that provide intensive professional development in partnership with local educational agencies; and carrying out initiatives to promote the retention of

highly qualified teachers who have a record of success in helping low-achieving students improve their academic success: *Provided further*, That each State educational agency may use such excess funds to carry out activities under section 2207 of the Elementary and Secondary Education Act of 1965: *Provided further*, That each State agency for higher education may use such excess funds to carry out activities under section 2211 of the Elementary and Secondary Education Act of 1965: *Provided further*, That both State educational agencies and State agencies for higher education may also use such excess funds for multi-week institutes, such as those provided in the summer months, that provide intensive professional development in partnership with local educational agencies; and grants to partnerships of such entities as local educational agencies, institutions of higher education, and private business, to recruit, and prepare, and provide professional development to, and help retain, school principals and superintendents, especially for such individuals who serve, or are preparing to serve, in high-poverty, low-performing schools and local educational agencies: *Provided further*, That such activities may be undertaken in consortium with other States: *Provided further*, That of the funds appropriated for part B of title II of the Elementary and Secondary Education Act of 1965, $45,000,000 shall be available to States and allocated in accordance with section 2202(b) of that Act (except that the requirements of section 2203 shall not apply): *Provided further*, That notwithstanding any other provision of law, each State shall use the amount made available under the preceding proviso to support efforts to meet the requirements for State eligibility for the Ed-Flex Partnership Act of 1999 or the requirements under section 1111 of title I of the Elementary and Secondary Education Act of 1965: *Provided further*, That $44,000,000 shall be available for national activities under section 2102 of the Elementary and Secondary Education Act of 1965: *Provided further*, That of the amount available in the preceding proviso, $3,000,000 shall be made available to the Secretary for the Troops-to-Teachers Program for transfer to the Defense Activity for Non-Traditional Education Support of the Department of Defense: *Provided further*, That the funds transferred under the preceding proviso shall be used by the Secretary of Defense to administer the Troops-to-Teachers Program, including the selection of participants in the Program under the Troops-to-Teachers Program Act of 1999 (title XVII of Public Law 106–65; 20 U.S.C. 9301 et seq.): *Provided further*, That for purposes of sections 1702(b) and (c) of the Troops-to-Teachers Program Act of 1999, the Secretary of Education shall be the administering Secretary and may, at the Secretary's discretion, carry out the activities under section 1702(c) of that Act and retain a portion of the funds made available for the Troops-to-Teachers Program to carry out section 1702(b) and (c) of that Act: *Provided further*, That of the amount made available under this heading for national activities under section 2102 of the Elementary and Secondary Education Act of 1965, the Secretary is authorized to use a portion of such funds to carry out activities to improve the knowledge and skills of early childhood educators and caregivers who work in urban or rural communities with high concentrations of young children living in poverty: *Provided further*, That of the amount appropriated, $3,208,000,000 shall be for title VI of the Elementary and Secondary Education Act of 1965 and to carry out activities under part B of the Individuals with Disabilities

Education Act (20 U.S.C. 1411 et seq.): *Provided further*, That of the amount made available for title VI, $1,623,000,000 shall be available, notwithstanding any other provision of law, in accordance with section 306 of this Act in order to reduce class size, particularly in the early grades, using highly qualified teachers to improve educational achievement for regular and special needs children: *Provided further*, That of the amount made available for title VI, $1,200,000,000 shall be available, notwithstanding any other provision of law, for grants for school repair and renovation, activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and technology activities, in accordance with section 321 of this Act: *Provided further*, That funds made available under this heading to carry out section 6301(b) of the Elementary and Secondary Education Act of 1965 shall be available for education reform projects that provide same gender schools and classrooms, consistent with applicable law: *Provided further*, That of the amount made available to carry out activities authorized under part C of title IX of the Elementary and Secondary Education Act of 1965, $1,000,000 shall be for the Alaska Humanities Forum for operation of the Rose student exchange program and $1,000,000 shall be for the Alaska Native Heritage Center to support its program of cultural education activities: *Provided further*, That of the amount made available for subpart 2 of part A of title IV of the Elementary and Secondary Education Act of 1965, $10,000,000, to remain available until expended, shall be for Project School Emergency Response to Violence to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis.

READING EXCELLENCE

For necessary expenses to carry out the Reading Excellence Act, $91,000,000, which shall become available on July 1, 2001 and shall remain available through September 30, 2002 and $195,000,000 which shall become available on October 1, 2001 and remain available through September 30, 2002.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, $115,500,000.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act of 1965, $460,000,000: *Provided*, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $7,439,948,000, of which $2,090,452,000 shall become available for obligation on July 1, 2001, and shall remain available through September 30, 2002, and of which $5,072,000,000 shall become

available on October 1, 2001 and shall remain available through September 30, 2002, for academic year 2001–2002: *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 $7,353,000 of the funds for section 672 of the Act shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this 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, $2,805,339,000: *Provided*, That the funds provided for title I of the Assistive Technology Act of 1998 ("the AT Act") shall be allocated notwithstanding section 105(b)(1) of the AT Act: *Provided further*, That each State shall be provided $50,000 for activities under section 102 of the AT Act: *Provided further*, That $15,000,000 shall be used to support grants for up to 3 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: *Provided further*, That $4,600,000 of the funds for section 303 of the Rehabilitation Act of 1973 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: *Provided further*, That $400,000 of the funds for title II of the Rehabilitation Act of 1973 shall be for the Cerebral Palsy Research Foundation in Wichita, Kansas for the establishment of a Rehabilitation Research and Training Center to study and recommend incentives for employers to hire persons with significant disabilities.

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.), $12,000,000.

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.), $53,376,000, 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.), $89,400,000: *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, $1,825,600,000, of which $1,000,000 shall remain available until expended, and of which $1,028,000,000 shall become available on July 1, 2001 and shall remain available through September 30, 2002 and of which $791,000,000 shall become available on October 1, 2001 and shall remain available through September 30, 2002: *Provided*, That of the amounts made available for the Carl D. Perkins Vocational and Technical Education Act, $5,600,000 shall be for tribally controlled postsecondary vocational and technical institutions under section 117: *Provided further*, That $9,000,000 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, $14,000,000 shall be for national leadership activities under section 243 and $6,500,000 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.

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, $10,674,000,000, which shall remain available through September 30, 2002.

The maximum Pell Grant for which a student shall be eligible during award year 2001–2002 shall be $3,750: *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 2000 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, $48,000,000.

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, section 1543 of the Higher Education Amendments of 1992 and title VIII of the Higher Education Amendments of 1998, and the Mutual Educational and Cultural Exchange Act of 1961, $1,911,710,000, of which $10,000,000 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, 2002, shall be available to fund fellowships for academic year 2002–2003 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: *Provided further*, That $3,000,000 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 $15,000,000 shall be available for tribally controlled colleges and universities under section 316 of the Higher Education Act of 1965, of which $5,000,000 shall be used for construction and renovation: *Provided further*, That $250,000 shall be for the Web-Based Education Commission to continue activities authorized under part J of title VIII of the Higher Education Amendments of 1998: *Provided further*, That $115,487,000 of the funds for part B of title VII of the Higher Education Act of 1965 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this 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 IMPROVEMENT

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; section 2102 of title II, parts A, B, K, and L and sections 10102 and 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103–227, $732,721,000: *Provided*, That of the funds appropriated for part A of title X of the Elementary and Secondary Education Act of 1965, as amended, $5,000,000 shall be made available for a high school reform program of grants to State educational agencies to improve academic performance and provide technical skills training: *Provided further*, That of the funds appropriated for part A of title X of the Elementary and Secondary Education Act of 1965, as amended, $5,000,000 shall be made available to carry out part L of title X of the Act: *Provided further*, That of the amount available for part A of title X of the Elementary and Secondary Education Act of 1965, as amended, $5,000,000 shall be available for grants to State and local educational agencies, in collaboration with other agencies and organizations, for school dropout prevention programs designed to address the needs of populations or communities with the highest dropout rates: *Provided further*, That of the amount made available for part A of title X of the Elementary and Secondary Education Act of 1965, as amended, $50,000,000 shall be made available 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 $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 and $20,000,000 of that $53,000,000 shall be made available for the Interagency Education Research Initiative: *Provided further*, That of the funds appropriated for part A of title X of the Elementary and Secondary Education Act, as amended, $50,000,000 shall be available to demonstrate effective approaches to comprehensive school reform, to be allocated and expended in accordance with the instructions relating to this activity in the statement of managers on the conference report accompanying Public Law 105–78 and in the statement of the managers on the conference

report accompanying Public Law 105–277: *Provided further*, That the funds made available for comprehensive school reform shall become available on July 1, 2001, and remain available through September 30, 2002, and in carrying out this initiative, the Secretary and the States shall support only approaches that show the most promise of enabling children to meet challenging State content standards and challenging State student performance standards based on reliable research and effective practices, and include an emphasis on basic academics and parental involvement: *Provided further*, That $139,624,000 of the funds for section 10101 of the Elementary and Secondary Education Act of 1965 shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: *Provided further*, That of the funds appropriated under section 10601 of title X of the Elementary and Secondary Education Act of 1965, as amended, $2,000,000 shall be used to conduct a violence prevention demonstration program: *Provided further*, That of the funds available for section 10601 of title X of the Elementary and Secondary Education Act of 1965, as amended, $150,000 shall be awarded to the Center for Educational Technologies to complete production and distribution of an effective CD–ROM product that would complement the "We the People: The Citizen and the Constitution" curriculum: *Provided further*, That, of the funds for title VI of Public Law 103–227 and notwithstanding the provisions of section 601(c)(1)(C) of that Act, $1,200,000 shall be available to the Center for Civic Education to conduct a civic education program with Northern Ireland and the Republic of Ireland and, consistent with the civics and Government activities authorized in section 601(c)(3) of Public Law 103–227, to provide civic education assistance to democracies in developing countries. The term "developing countries" shall have the same meaning as the term "developing country" in the Education for the Deaf Act.

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, $413,184,000.

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, $76,000,000.

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, $36,500,000.

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. The Comptroller General of the United States shall evaluate the extent to which funds made available under part A of title I of the Elementary and Secondary Education Act of 1965 are allocated to schools and local educational agencies with the greatest concentrations of school-age children from low-income families, the extent to which allocations of such funds adjust to shifts in concentrations of pupils from low-income families in different regions, States, and substate areas, the extent to which the allocation of such funds encourages the targeting of State funds to areas with higher concentrations of children from low-income families, and the implications of current distribution methods for such funds, shall make formula and other policy recommendations to improve the targeting of such funds to more effectively serve low-income children in both rural and urban areas, and shall prepare interim and final reports based on the results of the study, to be submitted to Congress not later than February 1, 2001, and April 1, 2001.

SEC. 306. (a) From the amount appropriated for title VI of the Elementary and Secondary Education Act of 1965 in accordance with this section, the Secretary of Education—

(1) shall make available a total of $6,000,000 to the Secretary of the Interior (on behalf of the Bureau of Indian Affairs) and the outlying areas for activities under this section; and

(2) shall allocate the remainder by providing each State the same percentage of that remainder as it received of the funds allocated to States under section 307(a)(2) of the Department of Education Appropriations Act, 1999.

(b)(1) Each State that receives funds under this section shall distribute 100 percent of such funds to local educational agencies, of which—

(A) 80 percent of such amount shall be allocated to such local educational agencies in proportion to the number of children, aged 5 to 17, who reside in the school district served by such local educational agency 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 satisfactory data are available compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for that fiscal year; and

(B) 20 percent of such amount shall be allocated to such local educational agencies in accordance with the relative enrollments of children, aged 5 to 17, in public and private nonprofit elementary and secondary schools within the boundaries of such agencies.

(2) Notwithstanding paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new fully qualified teacher in that agency, who is certified within the State (which may include certification through State or local alternative routes), has a baccalaureate degree, and demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section to (A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds; or (B) pay for activities described in subsection (c)(2)(A)(iii) which may be related to teaching in smaller classes.

(c)(1) The basic purpose and intent of this section is to reduce class size with fully qualified teachers. Each local educational agency that receives funds under this section shall use such funds to carry out effective approaches to reducing class size with fully qualified teachers who are certified within the State, including teachers certified through State or local alternative routes, and who demonstrate competency in the areas in which they teach, to improve educational achievement for both regular and special needs children, with particular consideration given to reducing class size in the early elementary grades for which some research has shown class size reduction is most effective.

(2)(A) Each such local educational agency may use funds under this section for—

(i) recruiting (including through the use of signing bonuses, and other financial incentives), hiring, and training fully qualified regular and special education teachers (which may include hiring special education teachers to team-teach with regular teachers in classrooms that contain both children with disabilities and non-disabled children) and teachers of special-needs children who are certified within the State, including teachers certified through State or local alternative routes, have a baccalaureate degree and demonstrate the general knowledge, teaching skills, and subject matter knowledge required to teach in their content areas;

(ii) testing new teachers for academic content knowledge and to meet State certification requirements that are consistent with title II of the Higher Education Act of 1965; and

(iii) providing professional development (which may include such activities as those described in section 2210 of the Elementary and Secondary Education Act of 1965, opportunities for teachers to attend multi-week institutes, such as those made available during the summer months that provide intensive professional development in partnership with local educational agencies and initiatives that promote retention and mentoring), to teachers, including special education teachers and teachers of special-needs children, in order to meet the goal of ensuring that all instructional staff have the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or areas in which they provide instruction, consistent with title II of the Higher Education Act of 1965.

(B)(i) Except as provided under clause (ii), a local educational agency may use not more than a total of 25 percent of the award received under this section for activities described in clauses (ii) and (iii) of subparagraph (A).

(ii) A local educational agency in which 10 percent or more of teachers in elementary schools, as defined by section 14101(14) of the Elementary and Secondary Education Act of 1965, have not met applicable State and local certification requirements (including certification through State or local alternative routes), or if such requirements have been waived, may use more than 25 percent of the funds it receives under this section for activities described in subparagraph (A)(iii) to help teachers who are not certified by the State become certified, including through State or local alternative routes, or to help teachers affected by class size reduction who lack sufficient content knowledge to teach effectively in the areas they teach to obtain that knowledge, if the local educational agency notifies the State educational agency of the percentage of the funds that it will use for the purpose described in this clause.

(C) A local educational agency that has already reduced class size in the early grades to 18 or less children (or has already reduced class size to a State or local class size reduction goal that was in effect on the day before the enactment of the Department of Education Appropriations Act, 2000, if that State or local educational agency goal is 20 or fewer children) may use funds received under this section—

(i) to make further class size reductions in grades kindergarten through 3;

(ii) to reduce class size in other grades; or

(iii) to carry out activities to improve teacher quality including professional development.

(D) If a local educational agency has already reduced class size in the early grades to 18 or fewer children and intends to use funds provided under this section to carry out professional development activities, including activities to improve teacher quality, then the State shall make the award under subsection (b) to the local educational agency.

(3) Each such agency shall use funds under this section only to supplement, and not to supplant, State and local funds that,

in the absence of such funds, would otherwise be spent for activities under this section.

(4) No funds made available under this section may be used to increase the salaries or provide benefits, other than participation in professional development and enrichment programs, to teachers who are not hired under this section. Funds under this section may be used to pay the salary of teachers hired under section 307 of the Department of Education Appropriations Act, 1999, or under section 310 of the Department of Education Appropriations Act, 2000.

(d)(1) Each State receiving funds under this section shall report on activities in the State under this section, consistent with section 6202(a)(2) of the Elementary and Secondary Education Act of 1965.

(2) Each State and local educational agency receiving funds under this section shall publicly report to parents on its progress in reducing class size, increasing the percentage of classes in core academic areas taught by fully qualified teachers who are certified within the State and demonstrate competency in the content areas in which they teach, and on the impact that hiring additional highly qualified teachers and reducing class size, has had, if any, on increasing student academic achievement.

(3) Each school receiving funds under this section shall provide to parents, upon request, the professional qualifications of their child's teacher.

(e) If a local educational agency uses funds made available under this section for professional development activities, the agency shall ensure for the equitable participation of private non-profit elementary and secondary schools in such activities. Section 6402 of the Elementary and Secondary Education Act of 1965 shall not apply to other activities under this section.

(f) A local educational agency that receives funds under this section may use not more than 3 percent of such funds for local administrative costs.

(g) Each local educational agency that desires to receive funds under this section shall include in the application required under section 6303 of the Elementary and Secondary Education Act of 1965 a description of the agency's program to reduce class size by hiring additional highly qualified teachers.

(h) No funds under this section may be used to pay the salary of any teacher hired with funds under section 307 of the Department of Education Appropriations Act, 1999, unless, by the start of the 2001–2002 school year, the teacher is certified within the State (which may include certification through State or local alternative routes) and demonstrates competency in the subject areas in which he or she teaches.

(i) Not later than 30 days after the date of the enactment of this Act, the Secretary shall provide specific notification to each local educational agency eligible to receive funds under this part regarding the flexibility provided under subsection (c)(2)(B)(ii) and the ability to use such funds to carry out activities described in subsection (c)(2)(A)(iii).

SEC. 307. Section 412 of the National Education Statistics Act of 1994 (Public Law 103–382) is amended—

(1) in subsection 412(c)(1), after "period of" and before "years,", by striking "3" and inserting "4"; and

(2) after "expiration of such term.", by adding the following new subsection:

"(4) CONFORMING PROVISION.—Members of the Board previously granted 3 year terms, whose terms are in effect on the date of enactment of the Department of Education Appropriations Act, 2001, shall have their terms extended by 1 year.".

SEC. 308. (a) Section 435(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)(2)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the first sentence of subparagraph (A), the Secretary shall restore the eligibility to participate in a program under subpart 1 of part A, part B, or part D of an institution that did not appeal its loss of eligibility within 30 days of receiving notification if the Secretary determines, on a case-by-case basis, that the institution's failure to appeal was substantially justified under the circumstances, and that—

"(i) the institution made a timely request that the appropriate guaranty agency correct errors in the draft data used to calculate the institution's cohort default rate;

"(ii) the guaranty agency did not correct the erroneous data in a timely fashion; and

"(iii) the institution would have been eligible if the erroneous data had been corrected by the guaranty agency.".

(b) The amendment made by subsection (a) of this section shall be effective for cohort default rate calculations for fiscal years 1997 and 1998.

SEC. 309. Section 439(r)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)(2)) is amended—

(1) in clause (A)(i), by striking "auditors and examiners" and inserting "and fix the compensation of such auditors and examiners as may be necessary"; and

(2) by inserting at the end of subparagraph (E) the following new subparagraph:

"(F) COMPENSATION OF AUDITORS AND EXAMINERS.—

"(i) RATES OF PAY.—Rates of basic pay for all auditors and examiners appointed pursuant to subparagraph (A) may be set and adjusted by the Secretary of the Treasury without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(ii) COMPARABILITY.—

"(I) IN GENERAL.—Subject to section 5373 of title 5, United States Code, the Secretary of the Treasury may provide additional compensation and benefits to auditors and examiners appointed pursuant to subparagraph (A) if the same type of compensation or benefits are then being provided by any agency referred to in section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

"(II) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for auditors and examiners appointed pursuant to subparagraph (A), the Secretary of the Treasury shall consult with, and seek to maintain comparability with, the agencies referred to in section

1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).".

SEC. 310. Section 117(i) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327(i)) is amended by inserting "such sums as may be necessary for" before "each of the 4 succeeding fiscal years.".

SEC. 311. Section 432(m)(1) of the Higher Education Act of 1965 (20 U.S.C. 1082(m)(1)) is amended—

(1) by striking clause (iv) of subparagraph (D); and

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

"(E) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—

"(i) IN GENERAL.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part, on behalf of any eligible lender (as defined in section 435(d)) shall attach, be perfected, and be assigned priority in the manner provided by the applicable State's law for perfection of security interests in accounts, as such law may be amended from time to time (including applicable transition provisions). If any such State's law provides for a statutory lien to be created in such loans, such statutory lien may be created by the entity or entities governed by such State law in accordance with the applicable statutory provisions that created such a statutory lien.

"(ii) COLLATERAL DESCRIPTION.—In addition to any other method for describing collateral in a legally sufficient manner permitted under the laws of the State, the description of collateral in any financing statement filed pursuant to this subparagraph shall be deemed legally sufficient if it lists such loans, or refers to records (identifying such loans) retained by the secured party or any designee of the secured party identified in such financing statement, including the debtor or any loan servicer.

"(iii) SALES.—Notwithstanding clauses (i) and (ii) and any provisions of any State law to the contrary, other than any such State's law providing for creation of a statutory lien, an outright sale of loans made under this part shall be effective and perfected automatically upon attachment as defined in the Uniform Commercial Code of such State.".

SEC. 312. Section 435(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)(5)) is amended—

(1) in subparagraph (A)(i), by striking "July 1, 2002," and inserting "July 1, 2004,"; and

(2) in subparagraph (B), by striking "1999, 2000, and 2001" and inserting "1999 through 2003".

SEC. 313. From the amounts made available for the "Fund for the Improvement of Education" under the heading "Education Research, Statistics, and Improvement", $10,000,000, to remain available until expended, shall be available to the Secretary of Education to be transferred to the Secretary of the Interior for

an award to the National Constitution Center for construction activities authorized under Public Law 100–433.

SEC. 314. Section 4116(b)(4) of the Elementary and Secondary Education Act of 1965 is amended by striking subparagraph (D) and inserting in lieu thereof: "(D) the development and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness; and".

SEC. 315. The Secretary of Education shall review the nursing program operated by Graceland University in Lamoni, Iowa, and may exercise the waiver authority provided in section 102(a)(3)(B) of the Higher Education Act of 1965, without regard to the provisions of 34 CFR 600.7(b)(3)(ii), if the Secretary determines that such a waiver is appropriate.

SEC. 316. Section 415 of the Higher Education Act of 1965 is amended—

(1) in section 415A(a)(2), by striking "section 415F" and inserting "section 415E"; and

(2) in section 415E, by striking 415E(c) and inserting in lieu thereof the following:

"(c) AUTHORIZED ACTIVITIES.—Each State receiving a grant under this section may use the grant funds for—

"(1) making awards that—

"(A) supplement grants received under section 415C(b)(2) by eligible students who demonstrate financial need; or

"(B) provide grants under section 415C(b)(2) to additional eligible students who demonstrate financial need;

"(2) providing scholarships for eligible students—

"(A) who demonstrate financial need; and

"(B) who—

"(i) desire to enter a program of study leading to a career in—

"(I) information technology;

"(II) mathematics, computer science, or engineering;

"(III) teaching; or

"(IV) another field determined by the State to be critical to the State's workforce needs; or

"(ii) demonstrate merit or academic achievement; and

"(3) making awards that—

"(A) supplement community service work-study awards received under section 415C(b)(2) by eligible students who demonstrate financial need; or

"(B) provide community service work-study awards under section 415C(b)(2) to additional eligible students who demonstrate financial need.".

(3) in section 415E, adding at the end the following new subsections:

"(f) SPECIAL RULE.—Notwithstanding subsection (d), for purposes of determining a State's share of the cost of the authorized activities described in subsection (c), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study

assistance for fiscal year 1999 (including any such assistance provided under this subpart).

"(g) USE OF FUNDS FOR ADMINISTRATIVE COSTS PROHIBITED.—A State receiving a grant under this section shall not use any of the grant funds to pay administrative costs associated with any of the authorized activities described in subsection (c).".

SEC. 317. (a) Section 402D of the Higher Education Act of 1965 (20 U.S.C. 1070a–14) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE.—

"(1) USE FOR STUDENT AID.—A recipient of a grant that undertakes any of the permissible services identified in subsection (b) may, in addition, use such funds to provide grant aid to students. A grant provided under this paragraph shall not exceed the maximum appropriated Pell Grant or, be less than the minimum appropriated Pell Grant, for the current academic year. In making grants to students under this subsection, an institution shall ensure that adequate consultation takes place between the student support service program office and the institution's financial aid office.

"(2) ELIGIBLE STUDENTS.—For purposes of receiving grant aid under this subsection, eligible students shall be current participants in the student support services program offered by the institution and be—

"(A) students who are in their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1; or

"(B) students who have completed their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 if the institution demonstrates to the satisfaction of the Secretary that—

"(i) these students are at high risk of dropping out; and

"(ii) it will first meet the needs of all its eligible first- and second-year students for services under this paragraph.

"(3) DETERMINATION OF NEED.—A grant provided to a student under paragraph (1) shall not be considered in determining that student's need for grant or work assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed that student's cost of attendance, as defined in section 472.

"(4) MATCHING REQUIRED.—A recipient of a grant who uses such funds for the purpose described in paragraph (1) shall match the funds used for such purpose, in cash, from non-Federal funds, in an amount that is not less than 33 percent of the total amount of funds used for that purpose. This paragraph shall not apply to any grant recipient that is an institution of higher education eligible to receive funds under part A or B of title III or title V.

"(5) RESERVATION.—In no event may a recipient use more than 20 percent of the funds received under this section for grant aid.

"(6) SUPPLEMENT, NOT SUPPLANT.—Funds received by a grant recipient that are used under this subsection shall be

used to supplement, and not supplant, non-Federal funds expended for student support services programs.".

(b) The amendments made by subsection (a) shall apply with respect to student support services grants awarded on or after the date of enactment of this Act.

SEC. 318. (a) Subparagraph (B) of section 427A(c)(4) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)(4)) is amended to read as follows:

"(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

"(I) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(II) 3.25 percent.

"(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is equal to—

"(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

"(II) 3.25 percent.".

(b) Subparagraph (A) of section 455(b)(4) of such Act (20 U.S.C. 1087e(b)(4)) is amended to read as follows:

"(A)(i) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on or before June 30, 2001, be determined on the preceding June 1 and be equal to—

"(I) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

"(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

"(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the applicable rate of interest determined under this subparagraph shall be determined on the preceding June 26 and be equal to—

"(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

"(II) 3.1 percent,

except that such rate shall not exceed 9 percent.".

SEC. 319. Section 1543 of the Higher Education Amendments of 1992 (20 U.S.C. 1070 note) is amended by adding at the end the following new subsection:

"(e) DESIGNATION.—Scholarships awarded under this section shall be known as 'B.J. Stupak Olympic Scholarships'.".

SEC. 320. (a) Subject to subsection (c), the Secretary of Education shall release the reversionary interests that were retained by the United States, as part of the conveyance of certain real property situated in the County of Marin, State of California, in

an April 3, 1978 Quitclaim Deed, which was filed for record on June 5, 1978, in Book 3384, at page 33, of the official Records of Marin County, California.

(b) The Secretary shall execute the release of the reversionary interests under subsection (a) without consideration.

(c) The Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instruments effectuating the release of the reversionary interests under subsection (a). In all other respects the provisions of the April 3, 1978 Quitclaim Deed shall remain intact.

SEC. 321. (a) GRANTS TO NATIVE AMERICAN SCHOOLS AND STATE EDUCATIONAL AGENCIES.—

(1) ALLOCATION OF FUNDS.—Of the amount made available under the heading "School improvement programs" for grants made in accordance with this section for school repair and renovation, activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and technology activities, the Secretary of Education shall allocate—

(A) $75,000,000 for grants to impacted local educational agencies (as defined in paragraph (3)) for school repair, renovation, and construction;

(B) $3,250,000 for grants to outlying areas for school repair and renovation in high-need schools and communities, allocated on such basis, and subject to such terms and conditions, as the Secretary determines appropriate;

(C) $25,000,000 for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with subpart 2 of part C of title X of the Elementary and Secondary Education Act of 1965; and

(D) the remainder to State educational agencies in proportion to the amount each State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2000, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.

(2) DETERMINATION OF GRANT AMOUNT.—

(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for fiscal year 2001, the Secretary shall determine the results obtained by the computation made under section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) with respect to children described in subsection (a)(1)(C) of such section and computed under subsection (a)(2)(B) of such section for such year—

(i) for each impacted local educational agency that receives funds under this section; and

(ii) for all such agencies together.

(B) COMPUTATION OF PAYMENT.—For fiscal year 2001, the Secretary shall calculate the amount of a grant to an impacted local educational agency by—

(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(ii); and

(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency.

(3) DEFINITION.—For purposes of this section, the term "impacted local educational agency" means, for fiscal year 2001—

(A) a local educational agency that receives a basic support payment under section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) for such fiscal year; and

(B) with respect to which the number of children determined under section 8003(a)(1)(C) of such Act for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year.

(b) WITHIN-STATE ALLOCATIONS.—

(1) ADMINISTRATIVE COSTS.—

(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (B), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administering the distribution of grants under this subsection.

(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the "State entity") for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (c), for school repair and renovation.

(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(i) IN GENERAL.—The State educational agency or State entity shall carry out a program of competitive grants to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to such agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the competition—

(I) award to high poverty local educational agencies described in clause (ii), in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such local educational agencies received under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2000 bears to the aggregate amount received for such fiscal year

under such part by all local educational agencies in the State;

(II) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2000 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

(III) award the remaining funds to local educational agencies not receiving an award under subclause (I) or (II), including high poverty and rural local educational agencies that did not receive such an award.

(ii) HIGH POVERTY LOCAL EDUCATIONAL AGENCIES.—A local educational agency is described in this clause if—

(I) the percentage described in subparagraph (C)(i) with respect to the agency is 30 percent or greater; or

(II) the number of children described in such subparagraph with respect to the agency is at least 10,000.

(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

(i) The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

(ii) The need of a local educational agency for school repair and renovation, as demonstrated by the condition of its public school facilities.

(iii) The fiscal capacity of a local educational agency to meet its needs for repair and renovation of public school facilities without assistance under this section, including its ability to raise funds through the use of local bonding capacity and otherwise.

(iv) In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school or schools, the extent to which the school or schools have access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

(v) The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

(D) POSSIBLE MATCHING REQUIREMENT.—

(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative

poverty of the population served by the local educational agency.

(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds to local educational agencies through competitive grant processes, to be used for the following:

(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(ii) For technology activities that are carried out in connection with school repair and renovation, including—

(I) wiring;

(II) acquiring hardware and software;

(III) acquiring connectivity linkages and resources; and

(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

(B) CRITERIA FOR AWARDING IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure (as defined in section 14101(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(2))).

(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

(C) CRITERIA FOR AWARDING TECHNOLOGY GRANTS.—In awarding competitive grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a State

educational agency shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described in subclauses (I) through (IV) of subparagraph (A)(ii).

(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to one or more of the following:

(A) Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

(i) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, or sewage systems;

(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

(iii) bringing public schools into compliance with fire and safety codes.

(B) School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(C) School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(D) Asbestos abatement or removal from public school facilities.

(E) Renovation, repair, and acquisition needs related to the building infrastructure of a charter school.

(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

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

(B) the construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

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

(3) CHARTER SCHOOLS.—A public charter school that constitutes a local educational agency under State law shall be eligible for assistance under the same terms and conditions as any other local educational agency (as defined in section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18))).

(4) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

(d) SPECIAL RULE.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair

or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

(e) PUBLIC COMMENT.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

(1) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

(2) shall provide the public with adequate and efficient notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

(3) shall provide the opportunity described in paragraph (1) in accordance 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.

(f) REPORTING.—

(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for—

(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary of Education, not later than December 31, 2002, a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

(3) ADDITIONAL REPORTS.—Each entity receiving funds allocated under subsection (a)(1)(A) or (B) shall submit to the Secretary, not later than December 31, 2002, a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

(g) APPLICABILITY OF PART B OF IDEA.—If a local educational agency uses funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), such part (including provisions respecting the participation of private school children), and any other provision of law that applies to such part, shall apply to such use.

(h) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(1)(D) for fiscal

year 2001, or does not use its entire allocation for such fiscal year, the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(1)(D).

(i) PARTICIPATION OF PRIVATE SCHOOLS.—

(1) IN GENERAL.—Section 6402 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7372) shall apply to subsection (b)(2) in the same manner as it applies to activities under title VI of such Act, except that—

(A) such section shall not apply with respect to the title to any real property renovated or repaired with assistance provided under this section;

(B) the term "services" as used in section 6402 of such Act with respect to funds under this section shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

(iii) asbestos abatement or removal from school facilities; and

(C) notwithstanding the requirements of section 6402(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7372(b)), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

(2) REMAINING FUNDS.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remainder shall be available to the local educational agency for renovation and repair of public school facilities.

(3) APPLICATION.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

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

(1) CHARTER SCHOOL.—The term "charter school" has the meaning given such term in section 10310(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066(1)).

(2) ELEMENTARY SCHOOL.—The term "elementary school" has the meaning given such term in section 14101(14) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14)).

(3) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term in subparagraphs (A) and (B) of section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18)).

(4) OUTLYING AREA.—The term "outlying area" has the meaning given such term in section 14101(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(21)).

(5) POOR CHILDREN AND CHILD POVERTY.—The terms "poor children" and "child poverty" refer to 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 (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.

(6) RURAL LOCAL EDUCATIONAL AGENCY.—The term "rural local educational agency" means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term "rural".

(7) SECONDARY SCHOOL.—The term "secondary school" has the meaning given such term in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)).

(8) STATE.—The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 322. (a) Part C of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061 et seq.) is amended—

(1) by inserting after the part heading the following:

"Subpart 1—Basic Charter School Grant Program";

and

(2) by adding at the end the following:

"Subpart 2—Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation

"SEC. 10321. PURPOSE.

"The purpose of this subpart is to provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

"SEC. 10322. GRANTS TO ELIGIBLE ENTITIES.

"(a) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than

three grants to eligible entities having applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

"(b) GRANTEE SELECTION.—The Secretary shall evaluate each application submitted, and shall make a determination of which are sufficient to merit approval and which are not. The Secretary shall award at least one grant to an eligible entity described in section 10330(2)(A), at least one grant to an eligible entity described in section 10330(2)(B), and at least one grant to an eligible entity described in section 10330(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

"(c) GRANT CHARACTERISTICS.—Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

"(d) SPECIAL RULE.—In the event the Secretary determines that the funds available are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and the second sentence of subsection (b) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

"SEC. 10323. APPLICATIONS.

"(a) IN GENERAL.—To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

"(b) CONTENTS.—An application under subsection (a) shall contain—

"(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

"(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

"(3) a description of the applicant's expertise in capital market financing;

"(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

"(5) a description of how the applicant possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

"(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding they need to have adequate facilities; and

"(7) such other information as the Secretary may reasonably require.

"SEC. 10324. CHARTER SCHOOL OBJECTIVES.

"An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 10325(a) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

"(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

"(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

"SEC. 10325. RESERVE ACCOUNT.

"(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 10324, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 10326) in a reserve account established and maintained by the entity for this purpose. Amounts deposited in such account shall be used by the entity for one or more of the following purposes:

"(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 10324.

"(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 10324.

"(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

"(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

"(b) INVESTMENT.—Funds received under this subpart and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

"(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

"SEC. 10326. LIMITATION ON ADMINISTRATIVE COSTS.

"An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

"SEC. 10327. AUDITS AND REPORTS.

"(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted

accounting principles and shall be subject to an annual audit by an independent public accountant.

"(b) REPORTS.—

"(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

"(2) CONTENTS.—Each such annual report shall include—

"(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

"(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

"(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

"(D) a listing and description of the charter schools served during the reporting period;

"(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 10324; and

"(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

"(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

"SEC. 10328. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

"No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

"SEC. 10329. RECOVERY OF FUNDS.

"(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

"(1) all of the funds in a reserve account established by an eligible entity under section 10325(a) if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this subpart, that the entity has failed to make substantial progress in carrying out the purposes described in section 10325(a); or

"(2) all or a portion of the funds in a reserve account established by an eligible entity under section 10325(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 10325(a).

"(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible

entity any funds that are being properly used to achieve one or more of the purposes described in section 10325(a).

"(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234 et seq.) shall apply to the recovery of funds under subsection (a).

"(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

"SEC. 10330. DEFINITIONS.

"In this subpart:

"(1) The term 'charter school' has the meaning given such term in section 10310.

"(2) The term 'eligible entity' means—

"(A) a public entity, such as a State or local governmental entity;

"(B) a private nonprofit entity; or

"(C) a consortium of entities described in subparagraphs (A) and (B).

"SEC. 10331. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2001.".

(b) Part C of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061 et seq.) is amended in each of the following provisions by striking "part" each place such term appears and inserting "subpart":

(1) Sections 10301 through 10305.

(2) Section 10307.

(3) Sections 10309 through 10311.

SEC. 323. (a) Section 8003(b)(2)(F) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)(F)) is amended—

(1) by striking "the Secretary shall use" and inserting "the Secretary—

"(i) shall use";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(ii) except as provided in subparagraph (C)(i)(I), shall include all of the children described in subparagraphs (F) and (G) of subsection (a)(1) enrolled in schools of the local educational agency in determining (I) the eligibility of the agency for assistance under this paragraph, and (II) the amount of such assistance if the number of such children meet the requirements of subsection (a)(3).".

(b) Section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) is amended by adding at the end the following:

"(G) DETERMINATION OF AVERAGE TAX RATES FOR GENERAL FUND PURPOSES.—For the purpose of determining average tax rates for general fund purposes for local educational agencies in a State under this paragraph (except under subparagraph (C)(i)(II)(bb)), the Secretary shall use either—

"(i) the average tax rate for general fund purposes for comparable local educational agencies, as determined by the Secretary in regulations; or

"(ii) the average tax rate of all the local educational agencies in the State.".

This title may be cited as the "Department of Education Appropriations Act, 2001".

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, $69,832,000, of which $9,832,000 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, $303,850,000: *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 Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2003, $365,000,000: *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, $20,000,000, to remain available until expended, shall be for digitalization, pending enactment of authorizing legislation.

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), $38,200,000, including $1,500,000, to remain available through September 30, 2002, 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.), $6,320,000.

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, $207,219,000: *Provided*, That of the amount provided, $1,000,000 shall be awarded to the National Museum of Women in the Arts in Washington, D.C., $700,000 shall be awarded to the University of Idaho Institute for the Historic Study of Jazz, $2,600,000 shall be awarded to Southeast Missouri State University River Campus and Museum, $900,000 shall be awarded to the Heritage Harbor Museum in Rhode Island, $500,000 shall be awarded to the Alaska Native Heritage Center, $576,000 shall be awarded to the Franklin Institute in Philadelphia, $925,000 shall be awarded to the Please Touch Museum, $250,000 shall be awarded to the Pittsburgh Children's Museum, $510,000 shall be awarded to the Temple University Library, $1,800,000 shall be awarded to Franklin Pierce College in New Hampshire, $500,000 shall be awarded to the Louisville Zoo in Kentucky, $150,000 shall be awarded to the Oregon Historical Society, $1,200,000 shall be awarded to the Mississippi River Museum and Discovery Center in Dubuque, Iowa, $650,000 shall be awarded to the Salisbury House Foundation in Des Moines, Iowa, $150,000 shall be awarded to the History Center for the Linn County Historical Museum in Iowa, $4,000,000 shall be awarded to the Newsline for the

Blind, of which $100,000 shall be awarded to the Iowa Newsline for the Blind and $100,000 shall be awarded to the West Virginia Newsline for the Blind, $1,000,000 shall be awarded to the Clay Center for the Arts and Sciences, $650,000 shall be awarded to Bishops Museum in Hawaii, $500,000 shall be awarded to the Wisconsin Maritime Museum, $250,000 shall be awarded to the Natural History Museum of Los Angeles, $400,000 shall be awarded to the Perkins Geology Museum at the University of Vermont, $400,000 shall be awarded to the Walt Whitman Cultural Arts Center in Camden, New Jersey, $400,000 shall be awarded to the Plainfield Public Library in Plainfield, New Jersey, $150,000 shall be awarded to the Ducktown Arts District in Atlantic City, New Jersey, $400,000 shall be awarded to the Lake Champlain Science Center in Vermont, $250,000 shall be awarded to the Foundation for the Arts, Music, and Entertainment of Shreveport-Bossier, Inc., $100,000 shall be awarded to Bryant College in Rhode Island, $120,000 shall be awarded to the Fenton Historical Museum of Jamestown, New York, $921,000 shall be awarded to the Mariners' Museum in Newport News, Virginia, $461,000 shall be awarded to DuPage County Children's Museum in Naperville, Illinois, $369,000 shall be awarded to the National Baseball Hall of Fame Library in Cooperstown, New York, $92,000 shall be awarded to the City of Corona, Riverside, California, $6,000 shall be awarded to the City of Murrieta, California Public Library, $1,382,000 shall be awarded to the Sierra Madre, California Public Library, $23,000 shall be awarded to the Brooklyn Public Library in Brooklyn, New York, $46,000 shall be awarded to the New York Public Library Staten Island branch, $266,000 shall be awarded to the Edward H. Nabb Research Center at Salisbury State University in Salisbury, Maryland, $461,000 shall be awarded to Texas Tech University, $230,000 shall be awarded to the City of Ontario, California Public Library, $461,000 shall be awarded to the Southern Oregon University in Ashland, Oregon, $1,106,000 shall be awarded to Christopher Newport University in Newport News, Virginia, $128,000 shall be awarded to the Nassau County Museum of Art in Roslyn Harbor, New York, $850,000 shall be awarded to the Children's Museum of Los Angeles, $43,000 shall be awarded to Sumter County Library in Sumter, South Carolina, $298,000 shall be awarded to Columbia College Center for Black Music Research in Chicago, Illinois, $723,000 shall be awarded to Old Sturbridge Village in Sturbridge, Massachusetts, $723,000 shall be awarded to New Bedford Whaling Museum in Massachusetts, $298,000 shall be awarded to Mystic Seaport Museum of America and the Sea in Connecticut, $468,000 shall be awarded to the City of Houston Public Library, $128,000 shall be awarded to the Roberson Museum and Science Center in Binghampton, New York, $850,000 shall be awarded to Berman Museum of Art at Ursinus College in Collegeville, Pennsylvania, $680,000 shall be awarded to AMISTAD Research Center at Tulane University, $2,125,000 shall be awarded to Silas Bronson Library in Waterbury, Connecticut, $213,000 shall be awarded to Fitchburg Art Museum in Fitchburg, Massachusetts, $128,000 shall be awarded to North Carolina Museum of Life and Science, $2,435,000 shall be awarded to New York Public Library, $85,000 shall be awarded to the New York Botanical Garden in Bronx, New York, $170,000 shall be awarded to George Eastman House in Rochester, New York, $425,000 shall be awarded to The National Aviary in Pittsburgh,

Pennsylvania, $723,000 shall be awarded to the George C. Page Museum in Los Angeles, California, $461,000 shall be awarded to the Abraham Lincoln Bicentennial Commission, and $410,000 shall be awarded to the AE Seaman Mineral Museum in Houghton, Michigan.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $8,000,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $1,495,000.

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, $2,615,000.

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, $1,500,000.

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, $216,438,000: *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, $10,400,000.

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), $8,720,000.

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, $160,000,000, which shall include amounts becoming available in fiscal year 2001 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 $160,000,000: *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, 2002, 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, $95,000,000, 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 $5,700,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or

award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,400,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $365,748,000, 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 2002, $114,000,000, 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, $23,043,000,000, 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, $210,000,000, to remain available until September 30, 2002, 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 2002, $10,470,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $6,583,000,000 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 2001 not needed for fiscal year 2001 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 previous paragraph, notwithstanding the provision under this heading in Public Law 106–113 regarding unobligated balances at the end of fiscal year 2000 not needed for such fiscal year, an amount not to exceed $50,000,000 from such unobligated balances shall, in addition to funding already available under this heading for fiscal year 2001, be available for necessary expenses.

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, $450,000,000, to remain available until September 30, 2002, 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, $91,000,000 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 2001 exceed $91,000,000, the amounts shall be available in fiscal year 2002 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 2000 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.

From funds provided under the first paragraph, up to $6,000,000 shall be available for implementation, development, evaluation, and other costs associated with administration of section 302 of the Ticket to Work and Work Incentives Improvement 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, $16,944,000, together with not to exceed $52,500,000, 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, $15,000,000.

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.

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. (a) Section 403(a)(5)(H)(iii) of the Social Security Act (42 U.S.C. 603(a)(5)(H)(iii)) is amended by striking "2001" and inserting "2005".

(b) Section 403(a)(5)(H) of such Act (42 U.S.C. 603(a)(5)(G)) is amended by adding at the end the following:

"(iv) INTERIM REPORT.—Not later than January 1, 2002, the Secretary shall submit to the Congress an interim report on the evaluations referred to in clause (i).".

SEC. 514. 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. 515. Section 410(b) of The Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) is amended by striking "2009" both places it appears and inserting "2001".

SEC. 516. (a) HUMAN PAPILLOMAVIRUS.—Part B of title III of the Public Health Services Act (42 U.S.C. 243 et seq.) is amended by inserting before section 318 the following section:

"HUMAN PAPILLOMAVIRUS

"SEC. 317P. (a) SURVEILLANCE.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control and Prevention, shall—

"(A) enter into cooperative agreements with States and other entities to conduct sentinel surveillance or other special studies that would determine the prevalence in various age groups and populations of specific types of human papillomavirus (referred to in this section as 'HPV') in different sites in various regions of the United States, through collection of special specimens for HPV using a variety of laboratory-based testing and diagnostic tools; and

"(B) develop and analyze data from the HPV sentinel surveillance system described in subparagraph (A).

"(2) REPORT.—The Secretary shall make a progress report to the Congress with respect to paragraph (1) no later than 1 year after the effective date of this section.

"(b) PREVENTION ACTIVITIES; EDUCATION PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control and Prevention, shall conduct prevention research on HPV, including—

"(A) behavioral and other research on the impact of HPV-related diagnosis on individuals;

"(B) formative research to assist with the development of educational messages and information for the public, for patients, and for their partners about HPV;

"(C) surveys of physician and public knowledge, attitudes, and practices about genital HPV infection; and

"(D) upon the completion of and based on the findings under subparagraphs (A) through (C), develop and disseminate educational materials for the public and health care providers regarding HPV and its impact and prevention.

"(2) REPORT; FINAL PROPOSAL.—The Secretary shall make a progress report to the Congress with respect to paragraph (1) not later than 1 year after the effective date of this section, and shall develop a final report not later than 3 years after such effective date, including a detailed summary of the significant findings and problems and the best strategies to prevent future infections, based on available science.

"(c) HPV EDUCATION AND PREVENTION.—

"(1) IN GENERAL.—The Secretary shall prepare and distribute educational materials for health care providers and the public that include information on HPV. Such materials shall address—

"(A) modes of transmission;

"(B) consequences of infection, including the link between HPV and cervical cancer;

"(C) the available scientific evidence on the effectiveness or lack of effectiveness of condoms in preventing infection with HPV; and

"(D) the importance of regular Pap smears, and other diagnostics for early intervention and prevention of cervical cancer purposes in preventing cervical cancer.

"(2) MEDICALLY ACCURATE INFORMATION.—Educational material under paragraph (1), and all other relevant educational and prevention materials prepared and printed from this date forward for the public and health care providers by the Secretary (including materials prepared through the Food and Drug Administration, the Centers for Disease Control and Prevention, and the Health Resources and Services Administration), or by contractors, grantees, or subgrantees thereof, that are specifically designed to address STDs including HPV shall contain medically accurate information regarding the effectiveness or lack of effectiveness of condoms in preventing the STD the materials are designed to address. Such requirement only applies to materials mass produced for the public and health care providers, and not to routine communications.".

(b) LABELING OF CONDOMS.—The Secretary of Health and Human Services shall reexamine existing condom labels that are authorized pursuant to the Federal Food, Drug, and Cosmetic Act to determine whether the labels are medically accurate regarding the overall effectiveness or lack of effectiveness of condoms in preventing sexually transmitted diseases, including HPV.

SEC. 517. Section 403(o) of the Food, Drug, and Cosmetic Act (21 U.S.C. 343(o)) is repealed. Subsections (c) and (d) of section 4 of the Saccharin Study and Labeling Act are repealed.

SEC. 518. (a) Title VIII of the Social Security Act is amended by inserting after section 810 (42 U.S.C. 1010) the following new section:

"SEC. 810A. OPTIONAL FEDERAL ADMINISTRATION OF STATE RECOGNITION PAYMENTS.

"(a) IN GENERAL.—The Commissioner of Social Security may enter into an agreement with any State (or political subdivision thereof) that provides cash payments on a regular basis to individuals entitled to benefits under this title under which the Commissioner of Social Security shall make such payments on behalf of such State (or subdivision).

"(b) AGREEMENT TERMS.—

"(1) IN GENERAL.—Such agreement shall include such terms as the Commissioner of Social Security finds necessary to achieve efficient and effective administration of both this title and the State program.

"(2) FINANCIAL TERMS.—Such agreement shall provide for the State to pay the Commissioner of Social Security, at such times and in such installments as the parties may specify—

"(A) an amount equal to the expenditures made by the Commissioner of Social Security pursuant to such agreement as payments to individuals on behalf of such State; and

"(B) an administration fee to reimburse the administrative expenses incurred by the Commissioner of Social Security in making payments to individuals on behalf of the State.

"(c) SPECIAL DISPOSITION OF ADMINISTRATION FEES.—Administration fees, upon collection, shall be credited to a special fund established in the Treasury of the United States for State recognition payments for certain World War II veterans. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title.".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of title VIII of the Social Security Act is amended by inserting after

"Sec. 810. Other administrative provisions."

the following:

"Sec. 810A. Optional Federal administration of State recognition payments.".

(2) Section 1129A(e) of the Social Security Act (42 U.S.C. 1320a–8a(e)) is amended—

(A) by inserting "VIII or" after "benefits under";

(B) by inserting "810A or" after "agreement under section";

(C) by inserting "1010A or" before "1382(e)(a)"; and

(D) by inserting ", as the case may be" immediately before the period.

SEC. 519. Section 1612(a)(1) of the Social Security Act (42 U.S.C. 1382(a) is amended—

(1) in subparagraph (A), by inserting "but without the application of section 210(j)(3)" immediately before the semicolon; and

(2) in subparagraph (B), by—

(A) striking "and the last" and inserting "the last"; and

(B) inserting ", and section 210(j)(3)" after "subsection (a)".

SEC. 520. 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 $25,000,000: *Provided*, That this provision shall not apply to the Food and Drug Administration and the Indian Health Service.

TITLE VI—ASSETS FOR INDEPENDENCE

SEC. 601. SHORT TITLE.

This title may be cited as the "Assets for Independence Act Amendments of 2000".

SEC. 602. MATCHING CONTRIBUTIONS UNAVAILABLE FOR EMERGENCY WITHDRAWALS.

Section 404(5)(A)(v) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking ", or enabling the eligible individual to make an emergency withdrawal".

SEC. 603. ADDITIONAL QUALIFIED ENTITIES.

Section 404(7)(A) of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

(1) in clause (i), by striking "or" at the end thereof;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

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

"(iii) an entity that—

"(I) is—

"(aa) a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA); or

"(bb) an organization designated as a community development financial institution by the Secretary of the Treasury (or the Community Development Financial Institutions Fund); and

"(II) can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.".

SEC. 604. HOME PURCHASE COSTS.

Section 404(8)(B)(i) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "100" and inserting "120".

SEC. 605. INCREASED SET-ASIDE FOR ECONOMIC LITERACY TRAINING AND ADMINISTRATIVE COSTS.

Section 407(c)(3) of the Assets for Independence Act (42 U.S.C. 604 note) is amended—

(1) by striking "9.5" and inserting "15"; and

(2) by inserting after the first sentence the following: "Of the total amount specified in this paragraph, not more than 7.5 percent shall be used for administrative functions under paragraph (1)(C), including program management, reporting requirements, recruitment and enrollment of individuals, and monitoring. The remainder of the total amount specified in this paragraph (not including the amount specified for use for the purposes described in paragraph (1)(D)) shall be used for nonadministrative functions described in paragraph (1)(A), including case management, budgeting, economic literacy, and credit counseling. If the cost of nonadministrative functions described in paragraph (1)(A) is less than 5.5 percent of the total amount specified in this paragraph, such excess funds may be used for administrative functions.".

SEC. 606. ALTERNATIVE ELIGIBILITY CRITERIA.

Section 408(a)(1) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "does not exceed" and inserting "is equal to or less than 200 percent of the poverty line (as determined by the Office of Management and Budget) or".

SEC. 607. REVISED ANNUAL PROGRESS REPORT DEADLINE.

(a) IN GENERAL.—Section 412(c) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "calendar" and inserting "project".

(b) TRANSITIONAL DEADLINE.—Notwithstanding the amendment made by subsection (a), the submission of the initial report of a qualified entity under section 412(c) shall not be required prior to the date that is 90 days after the date of enactment of this title.

SEC. 608. REVISED INTERIM EVALUATION REPORT DEADLINE.

(a) IN GENERAL.—Section 414(d)(1) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by striking "calendar" and inserting "project".

(b) TRANSITIONAL DEADLINE.—Notwithstanding the amendment made by subsection (a), the submission of the initial interim report of the Secretary under section 412(c) shall not be required prior to the date that is 90 days after the date of enactment of this title.

SEC. 609. INCREASED APPROPRIATIONS FOR EVALUATION EXPENSES.

Subsection (e) of section 414 of the Assets for Independence Act (42 U.S.C. 604 note) is amended to read as follows:

"(e) EVALUATION EXPENSES.—Of the amount appropriated under section 416 for a fiscal year, the Secretary may expend not more than $500,000 for such fiscal year to carry out the objectives of this section.".

SEC. 610. NO REDUCTION IN BENEFITS.

Section 415 of the Assets for Independence Act (42 U.S.C. 604 note) is amended to read as follows:

"SEC. 415. NO REDUCTION IN BENEFITS.

"Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of one or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such law to be provided to or for the benefit of such individual, funds (including interest accruing) in an individual development account under this Act shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such an account.".

TITLE VII—PHYSICAL EDUCATION FOR PROGRESS ACT

SEC. 701. PHYSICAL EDUCATION FOR PROGRESS. Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART L—PHYSICAL EDUCATION FOR PROGRESS

"SEC. 10999A. SHORT TITLE.

"This part may be cited as the 'Physical Education for Progress Act'.

"SEC. 10999B. PURPOSE.

"The purpose of this part is to award grants and contracts to local educational agencies to enable the local educational agencies to initiate, expand and improve physical education programs for all kindergarten through 12th grade students.

"SEC. 10999C. FINDINGS.

"Congress makes the following findings:

"(1) Physical education is essential to the development of growing children.

"(2) Physical education helps improve the overall health of children by improving their cardiovascular endurance, muscular strength and power, and flexibility, and by enhancing weight regulation, bone development, posture, skillful moving, active lifestyle habits, and constructive use of leisure time.

"(3) Physical education helps improve the self esteem, interpersonal relationships, responsible behavior, and independence of children.

"(4) Children who participate in high quality daily physical education programs tend to be more healthy and physically fit.

"(5) The percentage of young people who are overweight has more than doubled in the 30 years preceding 1999.

"(6) Low levels of activity contribute to the high prevalence of obesity among children in the United States.

"(7) Obesity related diseases cost the United States economy more than $100,000,000,000 every year.

"(8) Inactivity and poor diet cause at least 300,000 deaths a year in the United States.

"(9) Physically fit adults have significantly reduced risk factors for heart attacks and stroke.

"(10) Children are not as active as they should be and fewer than one in four children get 20 minutes of vigorous activity every day of the week.

"(11) The Surgeon General's 1996 Report on Physical Activity and Health, and the Centers for Disease Control and Prevention, recommend daily physical education for all students in kindergarten through grade 12.

"(12) Twelve years after Congress passed House Concurrent Resolution 97, 100th Congress, agreed to December 11, 1987, encouraging State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12, little progress has been made.

"(13) Every student in our Nation's schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. It is the unique role of quality physical education programs to develop the health-related fitness, physical competence, and cognitive understanding about physical activity for all students so that the students can adopt healthy and physically active lifestyles.

"SEC. 10999D. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to, and enter into contracts with, local educational agencies to pay the Federal share of the costs of initiating, expanding, and improving physical education programs for kindergarten through grade 12 students by—

"(1) providing equipment and support to enable students to actively participate in physical education activities; and

"(2) providing funds for staff and teacher training and education.

"SEC. 10999E. APPLICATIONS; PROGRAM ELEMENTS.

"(a) APPLICATIONS.—Each local educational agency desiring a grant or contract under this part shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in the schools served by the agency in order to make progress toward meeting State standards for physical education.

"(b) PROGRAM ELEMENTS.—A physical education program described in any application submitted under subsection (a) may provide—

"(1) fitness education and assessment to help children understand, improve, or maintain their physical well-being;

"(2) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every child;

"(3) development of cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle;

"(4) opportunities to develop positive social and cooperative skills through physical activity participation;

"(5) instruction in healthy eating habits and good nutrition; and

"(6) teachers of physical education the opportunity for professional development to stay abreast of the latest research, issues, and trends in the field of physical education.

"(c) SPECIAL RULE.—For the purpose of this part, extracurricular activities such as team sports and Reserve Officers' Training Corps (ROTC) program activities shall not be considered as part of the curriculum of a physical education program assisted under this part.

"SEC. 10999F. PROPORTIONALITY.

"The Secretary shall ensure that grants awarded and contracts entered into under this part shall be equitably distributed between local educational agencies serving urban and rural areas, and between local educational agencies serving large and small numbers of students.

"SEC. 10999G. PRIVATE SCHOOL STUDENTS AND HOME-SCHOOLED STUDENTS.

"An application for funds under this part may provide for the participation, in the activities funded under this part, of—

"(1) home-schooled children, and their parents and teachers; or

"(2) children enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers.

"SEC. 10999H. REPORT REQUIRED FOR CONTINUED FUNDING.

"As a condition to continue to receive grant or contract funding after the first year of a multiyear grant or contract under this part, the administrator of the grant or contract for the local educational agency shall submit to the Secretary an annual report that describes the activities conducted during the preceding year and demonstrates that progress has been made toward meeting State standards for physical education.

"SEC. 10999I. REPORT TO CONGRESS.

"The Secretary shall submit a report to Congress not later than June 1, 2003, that describes the programs assisted under

this part, documents the success of such programs in improving physical fitness, and makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this part.

"SEC. 10999J. ADMINISTRATIVE COSTS.

"Not more than 5 percent of the grant or contract funds made available to a local educational agency under this part for any fiscal year may be used for administrative costs.

"SEC. 10999K. FEDERAL SHARE; SUPPLEMENT NOT SUPPLANT.

"(a) FEDERAL SHARE.—The Federal share under this part may not exceed—

"(1) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

"(2) 75 percent of such cost for the second and each subsequent such year.

"(b) SUPPLEMENT NOT SUPPLANT.—Funds made available under this part shall be used to supplement and not supplant other Federal, State and local funds available for physical education activities.

"SEC. 10999L. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $30,000,000 for fiscal year 2001, $70,000,000 for fiscal year 2002, and $100,000,000 for each of the fiscal years 2003 through 2005, to carry out this part. Such funds shall remain available until expended.".

TITLE VIII—EARLY LEARNING OPPORTUNITIES

SEC. 801. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "Early Learning Opportunities Act".

(b) FINDINGS.—Congress finds that—

(1) medical research demonstrates that adequate stimulation of a young child's brain between birth and age 5 is critical to the physical development of the young child's brain;

(2) parents are the most significant and effective teachers of their children, and they alone are responsible for choosing the best early learning opportunities for their child;

(3) parent education and parent involvement are critical to the success of any early learning program or activity;

(4) the more intensively parents are involved in their child's early learning, the greater the cognitive and noncognitive benefits to their children;

(5) many parents have difficulty finding the information and support the parents seek to help their children grow to their full potential;

(6) each day approximately 13,000,000 young children, including 6,000,000 infants or toddlers, spend some or all of their day being cared for by someone other than their parents;

(7) quality early learning programs, including those designed to promote effective parenting, can increase the literacy rate, the secondary school graduation rate, the employment rate, and the college enrollment rate for children who have participated in voluntary early learning programs and activities;

(8) early childhood interventions can yield substantial advantages to participants in terms of emotional and cognitive development, education, economic well-being, and health, with the latter two advantages applying to the children's families as well;

(9) participation in quality early learning programs, including those designed to promote effective parenting, can decrease the future incidence of teenage pregnancy, welfare dependency, at-risk behaviors, and juvenile delinquency for children;

(10) several cost-benefit analysis studies indicate that for each $1 invested in quality early learning programs, the Federal Government can save over $5 by reducing the number of children and families who participate in Federal Government programs like special education and welfare;

(11) for children placed in the care of others during the workday, the low salaries paid to the child care staff, the lack of career progression for the staff, and the lack of child development specialists involved in early learning and child care programs, make it difficult to attract and retain the quality of staff necessary for a positive early learning experience;

(12) Federal Government support for early learning has primarily focused on out-of-home care programs like those established under the Head Start Act, the Child Care and Development Block Grant of 1990, and part C of the Individuals with Disabilities Education Act, and these programs—

(A) serve far fewer than half of all eligible children;

(B) are not primarily designed to provide support for parents who care for their young children in the home; and

(C) lack a means of coordinating early learning opportunities in each community; and

(13) by helping communities increase, expand, and better coordinate early learning opportunities for children and their families, the productivity and creativity of future generations will be improved, and the Nation will be prepared for continued leadership in the 21st century.

SEC. 802. PURPOSES.

The purposes of this title are—

(1) to increase the availability of voluntary programs, services, and activities that support early childhood development, increase parent effectiveness, and promote the learning readiness of young children so that young children enter school ready to learn;

(2) to support parents, child care providers, and caregivers who want to incorporate early learning activities into the daily lives of young children;

(3) to remove barriers to the provision of an accessible system of early childhood learning programs in communities throughout the United States;

(4) to increase the availability and affordability of professional development activities and compensation for caregivers and child care providers; and

(5) to facilitate the development of community-based systems of collaborative service delivery models characterized by resource sharing, linkages between appropriate supports, and local planning for services.

SEC. 803. DEFINITIONS.

In this title:

(1) CAREGIVER.—The term "caregiver" means an individual, including a relative, neighbor, or family friend, who regularly or frequently provides care, with or without compensation, for a child for whom the individual is not the parent.

(2) CHILD CARE PROVIDER.—The term "child care provider" means a provider of non-residential child care services (including center-based, family-based, and in-home child care services) for compensation who or that is legally operating under State law, and complies with applicable State and local requirements for the provision of child care services.

(3) EARLY LEARNING.—The term "early learning", used with respect to a program or activity, means learning designed to facilitate the development of cognitive, language, motor, and social-emotional skills for, and to promote learning readiness in, young children.

(4) EARLY LEARNING PROGRAM.—The term "early learning program" means—

(A) a program of services or activities that helps parents, caregivers, and child care providers incorporate early learning into the daily lives of young children; or

(B) a program that directly provides early learning to young children.

(5) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) LOCAL COUNCIL.—The term "Local Council" means a Local Council established or designated under section 814(a) that serves one or more localities.

(7) LOCALITY.—The term "locality" means a city, county, borough, township, or area served by another general purpose unit of local government, an Indian tribe, a Regional Corporation, or a Native Hawaiian entity.

(8) PARENT.—The term "parent" means a biological parent, an adoptive parent, a stepparent, a foster parent, or a legal guardian of, or a person standing in loco parentis to, a child.

(9) POVERTY LINE.—The term "poverty line" means 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.

(10) REGIONAL CORPORATION.—The term "Regional Corporation" means an entity listed in section 419(4)(B) of the Social Security Act (42 U.S.C. 619(4)(B)).

(11) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(13) TRAINING.—The term "training" means instruction in early learning that—

(A) is required for certification under State and local laws, regulations, and policies;

(B) is required to receive a nationally or State recognized credential or its equivalent;

(C) is received in a postsecondary education program focused on early learning or early childhood development in which the individual is enrolled; or

(D) is provided, certified, or sponsored by an organization that is recognized for its expertise in promoting early learning or early childhood development.

(14) YOUNG CHILD.—The term "young child" means any child from birth to the age of mandatory school attendance in the State where the child resides.

SEC. 804. PROHIBITIONS.

(a) PARTICIPATION NOT REQUIRED.—No person, including a parent, shall be required to participate in any program of early childhood education, early learning, parent education, or developmental screening pursuant to the provisions of this title.

(b) RIGHTS OF PARENTS.—Nothing in this title shall be construed to affect the rights of parents otherwise established in Federal, State, or local law.

(c) PARTICULAR METHODS OR SETTINGS.—No entity that receives funds under this title shall be required to provide services under this title through a particular instructional method or in a particular instructional setting to comply with this title.

(d) NONDUPLICATION.—No funds provided under this title shall be used to carry out an activity funded under another provision of law providing for Federal child care or early learning programs, unless an expansion of such activity is identified in the local needs assessment and performance goals under this title.

SEC. 805. AUTHORIZATION AND APPROPRIATION OF FUNDS.

There are authorized to be appropriated to the Department of Health and Human Services to carry out this title—

(1) $750,000,000 for fiscal year 2001;

(2) $1,000,000,000 for fiscal year 2002;

(3) $1,500,000,000 for fiscal year 2003; and

(4) such sums as may be necessary for each of the fiscal years 2004 and 2005.

SEC. 806. COORDINATION OF FEDERAL PROGRAMS.

(a) COORDINATION.—The Secretary and the Secretary of Education shall develop mechanisms to resolve administrative and programmatic conflicts between Federal programs that would be a barrier to parents, caregivers, service providers, or children related to the coordination of services and funding for early learning programs.

(b) USE OF EQUIPMENT AND SUPPLIES.—In the case of a collaborative activity funded under this title and another provision of law providing for Federal child care or early learning programs, the use of equipment and nonconsumable supplies purchased with funds made available under this title or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under this title or such provision, during a period in which the activity is predominately funded under this title or such provision.

SEC. 807. PROGRAM AUTHORIZED.

(a) GRANTS.—From amounts appropriated under section 805 the Secretary shall award grants to States to enable the States to award grants to Local Councils to pay the Federal share of

the cost of carrying out early learning programs in the locality served by the Local Council.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsections (a) and (e) shall be 85 percent for the first and second years of the grant, 80 percent for the third and fourth years of the grant, and 75 percent for the fifth and subsequent years of the grant.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost described in subsections (a) and (e) may be contributed in cash or in kind, fairly evaluated, including facilities, equipment, or services, which may be provided from State or local public sources, or through donations from private entities. For the purposes of this paragraph the term "facilities" includes the use of facilities, but the term "equipment" means donated equipment and not the use of equipment.

(c) MAINTENANCE OF EFFORT.—The Secretary shall not award a grant under this title to any State unless the Secretary first determines that the total expenditures by the State and its political subdivisions to support early learning programs (other than funds used to pay the non-Federal share under subsection (b)(2)) for the fiscal year for which the determination is made is equal to or greater than such expenditures for the preceding fiscal year.

(d) SUPPLEMENT NOT SUPPLANT.—Amounts received under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to promote early learning.

(e) SPECIAL RULE.—If funds appropriated to carry out this title are less than $150,000,000 for any fiscal year, the Secretary shall award grants for the fiscal year directly to Local Councils, on a competitive basis, to pay the Federal share of the cost of carrying out early learning programs in the locality served by the Local Council. In carrying out the preceding sentence—

(1) subsection (c), subsections (b) and (c) of section 810, and paragraphs (1), (2), and (3) of section 811(a) shall not apply;

(2) State responsibilities described in section 811(d) shall be carried out by the Local Council with regard to the locality;

(3) the Secretary shall provide such technical assistance and monitoring as necessary to ensure that the use of the funds by Local Councils and the distribution of the funds to Local Councils are consistent with this title; and

(4) subject to paragraph (1), the Secretary shall assume the responsibilities of the Lead State Agency under this title, as appropriate.

SEC. 808. USES OF FUNDS.

(a) IN GENERAL.—Subject to section 810, grant funds under this title shall be used to pay for developing, operating, or enhancing voluntary early learning programs that are likely to produce sustained gains in early learning.

(b) LIMITED USES.—Subject to section 810, Lead State Agencies and Local Councils shall ensure that funds made available under this title to the agencies and Local Councils are used for three or more of the following activities:

(1) Helping parents, caregivers, child care providers, and educators increase their capacity to facilitate the development of cognitive, language comprehension, expressive language,

social-emotional, and motor skills, and promote learning readiness.

(2) Promoting effective parenting.

(3) Enhancing early childhood literacy.

(4) Developing linkages among early learning programs within a community and between early learning programs and health care services for young children.

(5) Increasing access to early learning opportunities for young children with special needs, including developmental delays, by facilitating coordination with other programs serving such young children.

(6) Increasing access to existing early learning programs by expanding the days or times that the young children are served, by expanding the number of young children served, or by improving the affordability of the programs for low-income families.

(7) Improving the quality of early learning programs through professional development and training activities, increased compensation, and recruitment and retention incentives, for early learning providers.

(8) Removing ancillary barriers to early learning, including transportation difficulties and absence of programs during non-traditional work times.

(c) REQUIREMENTS.—Each Lead State Agency designated under section 810(c) and Local Councils receiving a grant under this title shall ensure—

(1) that Local Councils described in section 814 work with local educational agencies to identify cognitive, social, emotional, and motor developmental abilities which are necessary to support children's readiness for school;

(2) that the programs, services, and activities assisted under this title will represent developmentally appropriate steps toward the acquisition of those abilities; and

(3) that the programs, services, and activities assisted under this title collectively provide benefits for children cared for in their own homes as well as children placed in the care of others.

(d) SLIDING SCALE PAYMENTS.—States and Local Councils receiving assistance under this title shall ensure that programs, services, and activities assisted under this title which customarily require a payment for such programs, services, or activities, adjust the cost of such programs, services, and activities provided to the individual or the individual's child based on the individual's ability to pay.

SEC. 809. RESERVATIONS AND ALLOTMENTS.

(a) RESERVATION FOR INDIAN TRIBES, ALASKA NATIVES, AND NATIVE HAWAIIANS.—The Secretary shall reserve 1 percent of the total amount appropriated under section 805 for each fiscal year, to be allotted to Indian tribes, Regional Corporations, and Native Hawaiian entities, of which—

(1) 0.5 percent shall be available to Indian tribes; and

(2) 0.5 percent shall be available to Regional Corporations and Native Hawaiian entities.

(b) ALLOTMENTS.—From the funds appropriated under this title for each fiscal year that are not reserved under subsection (a), the Secretary shall allot to each State the sum of—

(1) an amount that bears the same ratio to 50 percent of such funds as the number of children 4 years of age and younger in the State bears to the number of such children in all States; and

(2) an amount that bears the same ratio to 50 percent of such funds as the number of children 4 years of age and younger living in families with incomes below the poverty line in the State bears to the number of such children in all States.

(c) MINIMUM ALLOTMENT.—No State shall receive an allotment under subsection (b) for a fiscal year in an amount that is less than .40 percent of the total amount appropriated for the fiscal year under this title.

(d) AVAILABILITY OF FUNDS.—Any portion of the allotment to a State that is not expended for activities under this title in the fiscal year for which the allotment is made shall remain available to the State for two additional years, after which any unexpended funds shall be returned to the Secretary. The Secretary shall use the returned funds to carry out a discretionary grant program for research-based early learning demonstration projects.

(e) DATA.—The Secretary shall make allotments under this title on the basis of the most recent data available to the Secretary.

SEC. 810. GRANT ADMINISTRATION.

(a) FEDERAL ADMINISTRATIVE COSTS.—The Secretary may use not more than 3 percent of the amount appropriated under section 805 for a fiscal year to pay for the administrative costs of carrying out this title, including the monitoring and evaluation of State and local efforts.

(b) STATE ADMINISTRATIVE COSTS.—A State that receives a grant under this title may use—

(1) not more than 2 percent of the funds made available through the grant to carry out activities designed to coordinate early learning programs on the State level, including programs funded or operated by the State educational agency, health, children and family, and human service agencies, and any State-level collaboration or coordination council involving early learning and education, such as the entities funded under section 640(a)(5) of the Head Start Act (42 U.S.C. 9835(a)(5));

(2) not more than 2 percent of the funds made available through the grant for the administrative costs of carrying out the grant program and the costs of reporting State and local efforts to the Secretary; and

(3) not more than 3 percent of the funds made available through the grant for training, technical assistance, and wage incentives provided by the State to Local Councils.

(c) LEAD STATE AGENCY.—

(1) IN GENERAL.—To be eligible to receive an allotment under this title, the Governor of a State shall appoint, after consultation with the leadership of the State legislature, a Lead State Agency to carry out the functions described in paragraph (2).

(2) LEAD STATE AGENCY.—

(A) ALLOCATION OF FUNDS.—The Lead State Agency described in paragraph (1) shall allocate funds to Local Councils as described in section 812.

(B) FUNCTIONS OF AGENCY.—In addition to allocating funds pursuant to subparagraph (A), the Lead State Agency shall—

(i) advise and assist Local Councils in the performance of their duties under this title;

(ii) develop and submit the State application;

(iii) evaluate and approve applications submitted by Local Councils under section 813;

(iv) ensure collaboration with respect to assistance provided under this title between the State agency responsible for education and the State agency responsible for children and family services;

(v) prepare and submit to the Secretary, an annual report on the activities carried out in the State under this title, which shall include a statement describing how all funds received under this title are expended and documentation of the effects that resources under this title have had on—

(I) parental capacity to improve learning readiness in their young children;

(II) early childhood literacy;

(III) linkages among early learning programs;

(IV) linkages between early learning programs and health care services for young children;

(V) access to early learning activities for young children with special needs;

(VI) access to existing early learning programs through expansion of the days or times that children are served;

(VII) access to existing early learning programs through expansion of the number of young children served;

(VIII) access to and affordability of existing early learning programs for low-income families;

(IX) the quality of early learning programs resulting from professional development, and recruitment and retention incentives for caregivers; and

(X) removal of ancillary barriers to early learning, including transportation difficulties and absence of programs during nontraditional work times; and

(vi) ensure that training and research is made available to Local Councils and that such training and research reflects the latest available brain development and early childhood development research related to early learning.

SEC. 811. STATE REQUIREMENTS.

(a) ELIGIBILITY.—To be eligible for a grant under this title, a State shall—

(1) ensure that funds received by the State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under State law;

(2) designate a Lead State Agency under section 810(c) to administer and monitor the grant and ensure State-level coordination of early learning programs;

(3) submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require;

(4) ensure that funds made available under this title are distributed on a competitive basis throughout the State to Local Councils serving rural, urban, and suburban areas of the State; and

(5) assist the Secretary in developing mechanisms to ensure that Local Councils receiving funds under this title comply with the requirements of this title.

(b) STATE PREFERENCE.—In awarding grants to Local Councils under this title, the State, to the maximum extent possible, shall ensure that a broad variety of early learning programs that provide a continuity of services across the age spectrum assisted under this title are funded under this title, and shall give preference to supporting—

(1) a Local Council that meets criteria, that are specified by the State and approved by the Secretary, for qualifying as serving an area of greatest need for early learning programs; and

(2) a Local Council that demonstrates, in the application submitted under section 813, the Local Council's potential to increase collaboration as a means of maximizing use of resources provided under this title with other resources available for early learning programs.

(c) LOCAL PREFERENCE.—In awarding grants under this title, Local Councils shall give preference to supporting—

(1) projects that demonstrate their potential to collaborate as a means of maximizing use of resources provided under this title with other resources available for early learning programs;

(2) programs that provide a continuity of services for young children across the age spectrum, individually, or through community-based networks or cooperative agreements; and

(3) programs that help parents and other caregivers promote early learning with their young children.

(d) PERFORMANCE GOALS.—

(1) ASSESSMENTS.—Based on information and data received from Local Councils, and information and data available through State resources, the State shall biennially assess the needs and available resources related to the provision of early learning programs within the State.

(2) PERFORMANCE GOALS.—Based on the analysis of information described in paragraph (1), the State shall establish measurable performance goals to be achieved through activities assisted under this title.

(3) REQUIREMENT.—The State shall award grants to Local Councils only for purposes that are consistent with the performance goals established under paragraph (2).

(4) REPORT.—The State shall report to the Secretary annually regarding the State's progress toward achieving the performance goals established in paragraph (2) and any necessary modifications to those goals, including the rationale for the modifications.

(5) IMPROVEMENT PLANS.—If the Secretary determines, based on the State report submitted under paragraph (4), that the State is not making progress toward achieving the performance goals described in paragraph (2), then the State shall submit a performance improvement plan to the Secretary, and demonstrate reasonable progress in implementing such plan, in order to remain eligible for funding under this title.

SEC. 812. LOCAL ALLOCATIONS.

(a) IN GENERAL.—The Lead State Agency shall allocate to Local Councils in the State not less than 93 percent of the funds provided to the State under this title for a fiscal year.

(b) LIMITATION.—The Lead State Agency shall allocate funds provided under this title on the basis of the population of the locality served by the Local Council.

SEC. 813. LOCAL APPLICATIONS.

(a) IN GENERAL.—To be eligible to receive assistance under this title, the Local Council shall submit an application to the Lead State Agency at such time, in such manner, and containing such information as the Lead State Agency may require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall include a statement ensuring that the local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has established or designated a Local Council under section 814, and the Local Council has developed a local plan for carrying out early learning programs under this title that includes—

(1) a needs and resources assessment concerning early learning services and a statement describing how early learning programs will be funded consistent with the assessment;

(2) a statement of how the Local Council will ensure that early learning programs will meet the performance goals reported by the Lead State Agency under this title; and

(3) a description of how the Local Council will form collaboratives among local youth, social service, and educational providers to maximize resources and concentrate efforts on areas of greatest need.

SEC. 814. LOCAL ADMINISTRATION.

(a) LOCAL COUNCIL.—

(1) IN GENERAL.—To be eligible to receive funds under this title, a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity, as appropriate, shall establish or designate a Local Council, which shall be composed of—

(A) representatives of local agencies directly affected by early learning programs assisted under this title;

(B) parents;

(C) other individuals concerned with early learning issues in the locality, such as representative entities providing elementary education, child care resource and referral services, early learning opportunities, child care, and health services; and

(D) other key community leaders.

(2) DESIGNATING EXISTING ENTITY.—If a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has, before the date of enactment of the Early Learning Opportunities Act, a Local Council or a regional entity that

is comparable to the Local Council described in paragraph (1), the entity, tribe, or corporation may designate the council or entity as a Local Council under this title, and shall be considered to have established a Local Council in compliance with this subsection.

(3) FUNCTIONS.—The Local Council shall be responsible for preparing and submitting the application described in section 813.

(b) ADMINISTRATION.—

(1) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds received by a Local Council under this title shall be used to pay for the administrative costs of the Local Council in carrying out this title.

(2) FISCAL AGENT.—A Local Council may designate any entity, with a demonstrated capacity for administering grants, that is affected by, or concerned with, early learning issues, including the State, to serve as fiscal agent for the administration of grant funds received by the Local Council under this title.

TITLE IX—RURAL EDUCATION ACHIEVEMENT PROGRAM

SEC. 901. RURAL EDUCATION INITIATIVE.

Subpart 2 of part J of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8291 et seq.) is amended to read as follows:

"Subpart 2—Rural Education Initiative

"SEC. 10971. SHORT TITLE.

"This subpart may be cited as the 'Rural Education Achievement Program'.

"SEC. 10972. PURPOSE.

"It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

"(1) lack the personnel and resources needed to compete for Federal competitive grants; and

"(2) receive formula allocations in amounts too small to be effective in meeting their intended purposes.

"SEC. 10973. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $62,500,000 for fiscal year 2001.

"SEC. 10974. FORMULA GRANT PROGRAM AUTHORIZED.

"(a) ALTERNATIVE USES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding, that the agency is eligible to receive from the State educational agency for a fiscal year, to carry out local activities authorized in part A of title I, section 2210(b), section 3134, or section 4116.

"(2) NOTIFICATION.—An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1) not later than a date that is established by the State educational agency for the notification.

"(b) ELIGIBILITY.—A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if—

"(1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

"(2) all of the schools served by the local educational agency are designated with a School Locale Code of 7 or 8, as determined by the Secretary of Education.

"(c) APPLICABLE FUNDING.—In this section, the term 'applicable funding' means funds provided under each of titles II, IV, and VI, except for funds made available under section 321 of the Department of Education Appropriations Act, 2001.

"(d) DISBURSAL.--Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time that the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other State or local education funds.

"(f) SPECIAL RULE.—References in Federal law to funds for the provisions of law set forth in subsection (c) may be considered to be references to funds for this section.

"(g) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services pursuant to State law or a written agreement from entering into similar arrangements for the use or the coordination of the use of the funds made available under this subpart.

"SEC. 10975. COMPETITIVE GRANT PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out local activities authorized in part A of title I, section 2210(b), section 3134, or section 4116.

"(b) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this section if—

"(1) the total number of students in average daily attendance at all of the schools served by the local educational agency is less than 600; and

"(2) all of the schools served by the local educational agency are designated with a School Locale Code of 7 or 8, as determined by the Secretary of Education.

"(c) AMOUNT.—

"(1) IN GENERAL.—The Secretary shall award a grant to a local educational agency under this section for a fiscal year in an amount equal to the amount determined under paragraph (2) for the fiscal year minus the total amount received under the provisions of law described under section 10974(c) for the fiscal year.

"(2) DETERMINATION.—The amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students that are in average daily attendance

at the schools served by the local educational agency, plus $20,000, except that the amount may not exceed $60,000.

"(3) CENSUS DETERMINATION.—

"(A) IN GENERAL.—Each local educational agency desiring a grant under this section shall determine for each year the number of kindergarten through grade 12 students in average daily attendance at the schools served by the local educational agency during the period beginning or the first day of classes and ending on December 1.

"(B) SUBMISSION.—Each local educational agency shall submit the number described in subparagraph (A) to the Secretary not later than March 1 of each year.

"(4) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under paragraph (3) for the purpose of gaining additional funds under this section, then the local educational agency shall be fined an amount equal to twice the difference between the amount the local educational agency received under this section, and the correct amount the local educational agency would have received under this section if the agency had submitted accurate information under paragraph (3).

"(d) DISBURSAL.—The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that year.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant any other State or local education funds.

"SEC. 10976. ACCOUNTABILITY.

"(a) ACADEMIC ACHIEVEMENT.—

"(1) IN GENERAL.—Each local educational agency that uses or receives funds under section 10974 or 10975 for a fiscal year shall—

"(A) administer an assessment that is used statewide and is consistent with the assessment described in section 1111(b), to assess the academic achievement of students in the schools served by the local educational agency; or

"(B) in the case of a local educational agency for which there is no statewide assessment described in subparagraph (A), administer a test, that is selected by the local educational agency, to assess the academic achievement of students in the schools served by the local educational agency.

"(2) SPECIAL RULE.—Each local educational agency that uses or receives funds under section 10974 or 10975 shall use the same assessment or test described in paragraph (1) for each year of participation in the program carried out under such section.

"(b) STATE EDUCATIONAL AGENCY DETERMINATION REGARDING CONTINUING PARTICIPATION.—Each State educational agency that receives funding under the provisions of law described in section 10974(c) shall—

"(1) after the third year that a local educational agency in the State participates in a program authorized under section 10974 or 10975 and on the basis of the results of the assessments or tests described in subsection (a), determine whether

the students served by the local educational agency participating in the program performed better on the assessments or tests after the third year of the participation than the students performed on the assessments or tests after the first year of the participation;

"(2) permit only the local educational agencies that participated in the program and served students that performed better on the assessments or tests, as described in paragraph (1), to continue to participate in the program for an additional period of 3 years; and

"(3) prohibit the local educational agencies that participated in the program and served students that did not perform better on the assessments or tests, as described in paragraph (1), from participating in the program, for a period of 3 years from the date of the determination.

"SEC. 10977. RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.

"(a) IN GENERAL.—If the amount appropriated for any fiscal year and made available for grants under this subpart is insufficient to pay the full amount for which all agencies are eligible under this subpart, the Secretary shall ratably reduce each such amount.

"(b) ADDITIONAL AMOUNTS.—If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subsection (a) shall be increased on the same basis as such payments were reduced.

"SEC. 10978. APPLICABILITY.

"Sections 10951 and 10952 shall not apply to this subpart.".

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001".

APPENDIX B—H.R. 5657

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Nancy Nally Coverdell, widow of Paul D. Coverdell, late a Senator from Georgia, $141,300.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; and Chairmen of the Majority and Minority Policy Committees, $3,000 for each Chairman; in all, $62,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $92,321,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,785,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $453,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $2,742,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $1,722,000.

COMMITTEE ON APPROPRIATIONS

For salaries of the Committee on Appropriations, $6,917,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $1,152,000 for each such committee; in all, $2,304,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $590,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, $1,171,000 for each such committee; in all, $2,342,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $288,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $14,738,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $34,811,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,292,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $22,337,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $4,046,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $1,069,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $73,000,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $370,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $2,077,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $71,511,000, of which $2,500,000 shall remain available until September 30, 2003.

MISCELLANEOUS ITEMS

For miscellaneous items, $8,655,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $253,203,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate $300,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. SEMIANNUAL REPORT. (a) IN GENERAL.—Section 105(a) of the Legislative Branch Appropriations Act, 1965 (2 U.S.C. 104a) is amended by adding at the end the following:

"(5)(A) Notwithstanding the requirements of paragraph (1) relating to the level of detail of statement and itemization, each report by the Secretary of the Senate required under such paragraph shall be compiled at a summary level for each office of the Senate authorized to obligate appropriated funds.

"(B) Subparagraph (A) shall not apply to the reporting of expenditures relating to personnel compensation, travel and transportation of persons, other contractual services, and acquisition of assets.

"(C) In carrying out this paragraph the Secretary of the Senate shall apply the Standard Federal Object Classification of Expenses as the Secretary determines appropriate.".

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by this section shall take effect on the date of enactment of this Act.

(2) FIRST REPORT AFTER ENACTMENT.—The Secretary of the Senate may elect to compile and submit the report for the semiannual period during which the date of enactment of this section occurs, as if the amendment made by this section had not been enacted.

SEC. 2. SENATE EMPLOYEE PAY ADJUSTMENTS. Section 4 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–1) is amended—

(1) in subsection (a)—

(A) by inserting "(or section 5304 or 5304a of such title, as applied to employees employed in the pay locality of the Washington, D.C.-Baltimore, Maryland consolidated metropolitan statistical area)" after "employees under section 5303 of title 5, United States Code,"; and

(B) by inserting "(and, as the case may be, section 5304 or 5304a of such title, as applied to employees employed in the pay locality of the Washington, D.C.-Baltimore, Maryland consolidated metropolitan statistical area)" after "the President under such section 5303";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) Any percentage used in any statute specifically providing for an adjustment in rates of pay in lieu of an adjustment made under section 5303 of title 5, United States Code, and, as the case may be, section 5304 or 5304a of such title for any calendar year shall be treated as the percentage used in an adjustment made under such section 5303, 5304, or 5304a, as applicable, for purposes of subsection (a).".

SEC. 3. (a) Section 6(c) of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 121b–1(c)) is amended—

(1) by striking "and agency contributions" in paragraph (2)(A), and

(2) by adding at the end the following:

"(3) Agency contributions for employees of Senate Hair Care Services shall be paid from the appropriations account for 'SALARIES, OFFICERS AND EMPLOYEES'.".

(b) This section shall apply to pay periods beginning on or after October 1, 2000.

SEC. 4. (a) There is established in the Treasury of the United States a revolving fund to be known as the Senate Health and Fitness Facility Revolving Fund ("the revolving fund").

(b) The Architect of the Capitol shall deposit in the revolving fund—

(1) any amounts received as dues or other assessments for use of the Senate Health and Fitness Facility, and

(2) any amounts received from the operation of the Senate waste recycling program.

(c) Subject to the approval of the Committee on Appropriations of the Senate, amounts in the revolving fund shall be available to the Architect of the Capitol, without fiscal year limitation, for payment of costs of the Senate Health and Fitness Facility.

(d) The Architect of the Capitol shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in the revolving fund that the Architect determines are in excess of the current and reasonably foreseeable needs of the Senate Health and Fitness Facility.

(e) Subject to the approval of the Committee on Rules and Administration of the Senate, the Architect of the Capitol may issue such regulations as may be necessary to carry out the provisions of this section.

SEC. 5. For each fiscal year (commencing with the fiscal year ending September 30, 2001), there is authorized an expense allowance for the Chairmen of the Majority and Minority Policy Committees which shall not exceed $3,000 each fiscal year for each such Chairman; and amounts from such allowance shall be paid to either of such Chairmen only as reimbursement for actual expenses incurred by him and upon certification and documentation of such expenses, and amounts so paid shall not be reported as income and shall not be allowed as a deduction under the Internal Revenue Code of 1986.

SEC. 6. (a) The head of the employing office of an employee of the Senate may, upon termination of employment of the employee, authorize payment of a lump sum for the accrued annual leave of that employee if—

(1) the head of the employing office—

(A) has approved a written leave policy authorizing employees to accrue leave and establishing the conditions upon which accrued leave may be paid; and

(B) submits written certification to the Financial Clerk of the Senate of the number of days of annual leave accrued by the employee for which payment is to be made under the written leave policy of the employing office; and

(2) there are sufficient funds to cover the lump sum payment.

(b)(1) A lump sum payment under this section shall not exceed the lesser of—

(A) twice the monthly rate of pay of the employee; or

(B) the product of the daily rate of pay of the employee and the number of days of accrued annual leave of the employee.

(2) The Secretary of the Senate shall determine the rates of pay of an employee under paragraph (1)(A) and (B) on the basis of the annual rate of pay of the employee in effect on the date of termination of employment.

(c) Any payment under this section shall be paid from the appropriation account or fund used to pay the employee.

(d) If an individual who received a lump sum payment under this section is reemployed as an employee of the Senate before

the end of the period covered by the lump sum payment, the individual shall refund an amount equal to the applicable pay covering the period between the date of reemployment and the expiration of the lump sum period. Such amount shall be deposited to the appropriation account or fund used to pay the lump sum payment.

(e) The Committee on Rules and Administration of the Senate may prescribe regulations to carry out this section.

(f) In this section, the term—

(1) "employee of the Senate" means any employee whose pay is disbursed by the Secretary of the Senate, except that the term does not include a member of the Capitol Police or a civilian employee of the Capitol Police; and

(2) "head of the employing office" means any person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an individual whose pay is disbursed by the Secretary of the Senate.

SEC. 7. (a) Agency contributions for employees whose salaries are disbursed by the Secretary of the Senate from the appropriations account "JOINT ECONOMIC COMMITTEE" under the heading "JOINT ITEMS" shall be paid from the Senate appropriations account for "SALARIES, OFFICERS AND EMPLOYEES".

(b) This section shall apply to pay periods beginning on or after October 1, 2000.

SEC. 8. Section 316 of Public Law 101–302 (40 U.S.C. 188b–6) is amended—

(1) in the first sentence of subsection (a) by striking "items of art, fine art, and historical items" and inserting "works of art, historical objects, documents, or material relating to historical matters for placement or exhibition";

(2) in the second sentence of subsection (a)—

(A) by striking "such items" each place it appears and inserting "such works, objects, documents, or material" in each such place; and

(B) by striking "an item" and inserting "a work, object, document, or material"; and

(3) in subsection (b)—

(A) by striking "such items of art" and inserting "such works, objects, documents, or materials"; and

(B) by striking "shall" and inserting "may".

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $769,551,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $14,378,000, including: Office of the Speaker, $1,759,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,726,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $2,096,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $1,466,000, including $5,000 for official expenses of the Majority

Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $1,096,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $410,000; Republican Steering Committee, $765,000; Republican Conference, $1,255,000; Democratic Steering and Policy Committee, $1,352,000; Democratic Caucus, $668,000; nine minority employees, $1,229,000; training and program development—majority, $278,000; and training and program development—minority, $278,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $410,182,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $92,196,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2002.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, $20,628,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2002.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $90,403,000, including: for salaries and expenses of the Office of the Clerk, including not more than $3,500, of which not more than $2,500 is for the Family Room, for official representation and reception expenses, $14,590,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $750 for official representation and reception expenses, $3,692,000; for salaries and expenses of the Office of the Chief Administrative Officer, $58,550,000, of which $1,054,000 shall remain available until expended, including $26,605,000 for salaries, expenses and temporary personal services of House Information Resources, of which $26,020,000 is provided herein: *Provided*, That of the amount provided for House Information Resources, $6,497,000 shall be for net expenses of telecommunications: *Provided further*, That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such

reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, $3,249,000; for salaries and expenses of the Office of General Counsel, $806,000; for the Office of the Chaplain, $140,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,201,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $2,045,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $5,085,000; for salaries and expenses of the Corrections Calendar Office, $832,000; and for other authorized employees, $213,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $141,764,000, including: supplies, materials, administrative costs and Federal tort claims, $2,235,000; official mail for committees, leadership offices, and administrative offices of the House, $410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $138,726,000; and miscellaneous items including purchase, exchange, maintenance, repair, and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $393,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. During fiscal year 2001 and any succeeding fiscal year, the Chief Administrative Officer of the House of Representatives may—

(1) enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year to the same extent as the head of an executive agency under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l); and

(2) enter into multiyear contracts for the acquisitions of property and nonaudit-related services to the same extent as executive agencies under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c).

SEC. 102. (a) PERMITTING NEW HOUSE EMPLOYEES TO BE PLACED ABOVE MINIMUM STEP OF COMPENSATION LEVEL.—The House Employees Position Classification Act (2 U.S.C. 291 et seq.) is amended by striking section 10 (2 U.S.C. 299).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to employees appointed on or after October 1, 2000.

SEC. 103. (a) REQUIRING AMOUNTS REMAINING IN MEMBERS' REPRESENTATIONAL ALLOWANCES TO BE USED FOR DEFICIT REDUCTION OR TO REDUCE THE FEDERAL DEBT.—Notwithstanding any other provision of law, any amounts appropriated under this Act for "HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES" shall be available only for fiscal year 2001. Any amount remaining after all payments are made under such allowances for fiscal year 2001 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made, for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) REGULATIONS.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, Congress.

SEC. 104. (a) There is hereby appropriated for payment to the Prince William County Public Schools $215,000, to be used to pay for educational services for the son of Mrs. Evelyn Gibson, the widow of Detective John Michael Gibson of the United States Capitol Police.

(b) The payment under subsection (a) shall be made in accordance with terms and conditions established by the Committee on House Administration of the House of Representatives.

(c) The funds used for the payment made under subsection (a) shall be derived from the applicable accounts of the House of Representatives.

JOINT ITEMS

For Joint Committees, as follows:

JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES OF 2001

For all construction expenses, salaries, and other expenses associated with conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 2001, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 89, agreed to March 14, 2000 (One Hundred Sixth Congress), and Senate Concurrent Resolution 90, agreed to March 14, 2000 (One Hundred Sixth Congress), $1,000,000 to be disbursed by the Secretary of the Senate and to remain available until September 30, 2001. Funds made available under this heading shall be available for payment, on a direct or reimbursable basis, whether incurred on, before, or after, October 1, 2000: *Provided*, That the compensation of any employee of the Committee on Rules and Administration of the Senate who has been designated to perform service for the Joint Congressional Committee on Inaugural Ceremonies shall continue to be paid by the Committee on Rules and Administration, but the account from which such staff member is paid may be reimbursed for the services of the staff member (including agency contributions when appropriate) out of funds made available under this heading.

ADMINISTRATIVE PROVISION

SEC. 105. During fiscal year 2001 the Secretary of Defense shall provide protective services on a nonreimbursable basis to the United States Capitol Police with respect to the following events:

(1) Upon request of the Chair of the Joint Congressional Committee on Inaugural Ceremonies established under Senate Concurrent Resolution 89, One Hundred Sixth Congress, agreed to March 14, 2000, the proceedings and ceremonies conducted for the inauguration of the President-elect and Vice President-elect of the United States.

(2) Upon request of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the joint session of Congress held to receive a message from the President of the United States on the State of the Union.

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,315,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $6,430,000, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to three medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $500 per month to one assistant and $400 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) $1,159,904 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,835,000, to be disbursed by the Chief Administrative Officer of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, $97,142,000, of which $47,053,000

is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Chief Administrative Officer of the House, and $50,089,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $6,772,000, to be disbursed by the Capitol Police Board or their delegee: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2001 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

ADMINISTRATIVE PROVISIONS

SEC. 106. Amounts appropriated for fiscal year 2001 for the Capitol Police Board for the Capitol Police may be transferred between the headings "SALARIES" and "GENERAL EXPENSES" upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms of the House of Representatives under the heading "SALARIES";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms and Doorkeeper of the Senate under the heading "SALARIES"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of other transfers.

SEC. 107. (a) APPOINTMENT OF CERTIFYING OFFICERS OF THE CAPITOL POLICE.—The Chief Administrative Officer of the United States Capitol Police, or when there is not a Chief Administrative Officer, the Capitol Police Board, shall appoint certifying officers to certify all vouchers for payment from funds made available to the United States Capitol Police.

(b) RESPONSIBILITY AND ACCOUNTABILITY OF CERTIFYING OFFICERS.—

(1) IN GENERAL.—Each officer or employee of the Capitol Police who has been duly authorized in writing by the Chief Administrative Officer, or the Capitol Police Board if there

is not a Chief Administrative Officer, to certify vouchers pursuant to subsection (a) shall—

(A) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting papers and for the legality of the proposed payment under the appropriation or fund involved;

(B) be held responsible and accountable for the correctness of the computations of certified vouchers; and

(C) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by such officer or employee, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

(2) RELIEF BY COMPTROLLER GENERAL.—The Comptroller General may, at the Comptroller General's discretion, relieve such certifying officer or employee of liability for any payment otherwise proper if the Comptroller General finds—

(A) that the certification was based on official records and that the certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained, the actual facts; or

(B) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment.

(c) ENFORCEMENT OF LIABILITY.—The liability of the certifying officers of the United States Capitol Police shall be enforced in the same manner and to the same extent as currently provided with respect to the enforcement of the liability of disbursing and other accountable officers, and such officers shall have the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment on any vouchers presented to them for certification.

SEC. 108. CHIEF ADMINISTRATIVE OFFICER.—(a) There shall be within the Capitol Police an Office of Administration to be headed by a Chief Administrative Officer:

(1) The Chief Administrative Officer shall be appointed by the Comptroller General after consultation with the Capitol Police Board, and shall report to and serve at the pleasure of the Comptroller General.

(2) The Comptroller General shall appoint as Chief Administrative Officer an individual with the knowledge and skills necessary to carry out the responsibilities for budgeting, financial management, information technology, and human resource management described in this section.

(3) The Chief Administrative Officer shall receive basic pay at a rate determined by the Comptroller General, but not to exceed the annual rate of basic pay payable for ES–2 of the Senior Executive Service Basic Rates Schedule established for members of the Senior Executive Service of the General Accounting Office under section 733 of title 31.

(4) The Capitol Police shall reimburse from available appropriations any costs incurred by the General Accounting Office under this section.

(b) The Chief Administrative Officer shall have the following areas of responsibility:

(1) BUDGETING.—The Chief Administrative Officer shall—

(A) after consulting with the Chief of Police on the portion of the budget covering uniformed police force personnel, prepare and submit to the Capitol Police Board an annual budget for the Capitol Police; and

(B) execute the budget and monitor through periodic examinations the execution of the Capitol Police budget in relation to actual obligations and expenditures.

(2) FINANCIAL MANAGEMENT.—The Chief Administrative Officer shall—

(A) oversee all financial management activities relating to the programs and operations of the Capitol Police;

(B) develop and maintain an integrated accounting and financial system for the Capitol Police, including financial reporting and internal controls, which—

(i) complies with applicable accounting principles, standards, and requirements, and internal control standards;

(ii) complies with any other requirements applicable to such systems;

(iii) provides for—

(I) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to financial information needs of the Capitol Police;

(II) the development and reporting of cost information;

(III) the integration of accounting and budgeting information; and

(IV) the systematic measurement of performance;

(C) direct, manage, and provide policy guidance and oversight of Capitol Police financial management personnel, activities, and operations, including—

(i) the recruitment, selection, and training of personnel to carry out Capitol Police financial management functions; and

(ii) the implementation of Capitol Police asset management systems, including systems for cash management, debt collection, and property and inventory management and control; and

(D) the Chief Administrative Officer shall prepare annual financial statements for the Capitol Police and provide for an annual audit of the financial statements by an independent public accountant in accordance with generally accepted government auditing standards.

(3) INFORMATION TECHNOLOGY.—The Chief Administrative Officer shall—

(A) direct, coordinate, and oversee the acquisition, use, and management of information technology by the Capitol Police;

(B) promote and oversee the use of information technology to improve the efficiency and effectiveness of programs of the Capitol Police; and

(C) establish and enforce information technology principles, guidelines, and objectives, including developing and maintaining an information technology architecture for the Capitol Police.

(4) HUMAN RESOURCES.—The Chief Administrative Officer shall—

(A) direct, coordinate, and oversee human resource management activities of the Capitol Police, except that with respect to uniformed police force personnel, the Chief Administrative Officer shall perform these activities in cooperation with the Chief of the Capitol Police;

(B) develop and monitor payroll and time and attendance systems and employee services; and

(C) develop and monitor processes for recruiting, selecting, appraising, and promoting employees.

(c) Administrative provisions with respect to the Office of Administration:

(1) The Chief Administrative Officer is authorized to select, appoint, employ, and discharge such officers and employees as may be necessary to carry out the functions, powers, and duties of the Office of Administration but he shall not have the authority to hire or discharge uniformed police force personnel.

(2) The Chief Administrative Officer may utilize resources of another agency on a reimbursable basis to be paid from available appropriations of the Capitol Police.

(d) No later than 180 days after appointment, the Chief Administrative Officer shall prepare, after consultation with the Capitol Police Board and the Chief of the Capitol Police, a plan—

(1) describing the policies, procedures, and actions the Chief Administrative Officer will take in carrying out the responsibilities assigned under this section;

(2) identifying and defining responsibilities and roles of all offices, bureaus, and divisions of the Capitol Police for budgeting, financial management, information technology, and human resources management; and

(3) detailing mechanisms for ensuring that the offices, bureaus, and divisions perform their responsibilities and roles in a coordinated and integrated manner.

(e) No later than September 30, 2001, the Chief Administrative Officer shall prepare, after consultation with the Capitol Police Board and the Chief of the Capitol Police, a report on the Chief Administrative Officer's progress in implementing the plan described in subsection (d) and recommendations to improve the budgeting, financial, information technology, and human resources management of the Capitol Police, including organizational, accounting and administrative control, and personnel changes.

(f) The Chief Administrative Officer shall submit the plan required in subsection (d) and the report required in subsection (e) to the Committees on Appropriations of the House of Representatives and of the Senate, the Committee on House Administration of the House of Representatives, and the Committee on Rules and Administration of the Senate.

(g) As of October 1, 2002, unless otherwise determined by the Comptroller General, the Chief Administrative Officer established by section (a) will cease to be an employee of the General Accounting Office and will become an employee of the Capitol Police, and the Capitol Police Board shall assume all responsibilities of the Comptroller General under this section.

SEC. 109. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking "the annual rate" and all that follows and inserting the following: "the rate of basic pay payable for level ES–4 of the Senior Executive Service, as established under subchapter VIII of chapter 53 of title 5, United States Code (taking into account any comparability payments made under section 5304(h) of such title).".

(b) The amendment made by subsection (a) shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, $2,371,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than 43 individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Sixth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $1,820,000.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93–344), including not more than $3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $28,493,000: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

ADMINISTRATIVE PROVISION

SEC. 110. Beginning on the date of enactment of this Act and hereafter, the Congressional Budget Office may use available funds to enter into contracts for the procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year and may enter into multi-year contracts for the acquisition of property and services, to the same extent as executive agencies under the authority of section 303L and 304B, respectively, of the Federal Property and Administrative Services Act (41 U.S.C. 253l and 254c).

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

SALARIES AND EXPENSES

For salaries for the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment, including not more than $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance and operation of a passenger motor vehicle; and not to exceed $20,000 for attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $43,689,000, of which $3,843,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, such amount shall be available for the position of Project Manager for the Capitol Visitor Center, at a rate of compensation which does not exceed the rate of basic pay payable for level ES–2 of the Senior Executive Service, as established under subchapter VIII of chapter 53 of title 5, United States Code (taking into account any comparability payments made under section 5304(h) of such title): *Provided further*, That effective on the date of the enactment of this Act, any amount made available under this heading under the Legislative Branch Appropriations Act, 2000, shall be available for such position at such rate of compensation.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,362,000, of which $125,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of Senate office buildings; and furniture and furnishings to

be expended under the control and supervision of the Architect of the Capitol, $63,974,000, of which $21,669,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $32,750,000, of which $123,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $39,415,000, of which $523,000 shall remain available until expended: *Provided*, That not more than $4,400,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2001.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $73,592,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary

for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $71,462,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

ADMINISTRATIVE PROVISION

SEC. 111. (a) CONGRESSIONAL PRINTING AND BINDING FOR THE HOUSE THROUGH CLERK OF HOUSE.—

(1) IN GENERAL.—Notwithstanding any provision of title 44, United States Code, or any other law, there are authorized to be appropriated to the Clerk of the House of Representatives such sums as may be necessary for congressional printing and binding services for the House of Representatives.

(2) PREPARATION OF ESTIMATES.—Estimated expenditures and proposed appropriations for congressional printing and binding services shall be prepared and submitted by the Clerk of the House of Representatives in accordance with title 31, United States Code, in the same manner as estimates and requests are prepared for other legislative branch services under such title, except that such requests shall be based upon the results of the study conducted under subsection (b) (with respect to any fiscal year covered by such study).

(3) EFFECTIVE DATE.—This subsection shall apply with respect to fiscal year 2003 and each succeeding fiscal year.

(b) STUDY.—

(1) IN GENERAL.—During fiscal year 2001, the Clerk of the House of Representatives shall conduct a comprehensive study of the needs of the House for congressional printing and binding services during fiscal year 2003 and succeeding fiscal years (including transitional issues during fiscal year 2002), and shall include in the study an analysis of the most cost-effective program or programs for providing printed or other media-based publications for House uses.

(2) SUBMISSION TO COMMITTEES.—The Clerk shall submit the study conducted under paragraph (1) to the Committee on House Administration of the House of Representatives, who shall review the study and prepare such regulations or other materials (including proposals for legislation) as it considers appropriate to enable the Clerk to carry out congressional printing and binding services for the House in accordance with this section.

(c) DEFINITION.—In this section, the term "congressional printing and binding services" means the following services:

(1) Authorized printing and binding for the Congress and the distribution of congressional information in any format.

(2) Preparing the semimonthly and session index to the Congressional Record.

(3) Printing and binding of Government publications authorized by law to be distributed to Members of Congress.

(4) Printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient.

This title may be cited as the "Congressional Operations Appropriations Act, 2001".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $3,328,000, of which $25,000 shall remain available until expended.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $282,838,000, of which not more than $6,500,000 shall be derived from collections credited to this appropriation during fiscal year 2001, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than $350,000 shall be derived from collections during fiscal year 2001 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds

derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $6,850,000: *Provided further*, That of the total amount appropriated, $10,459,575 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, $2,506,000 is to remain available until expended for the acquisition and partial support for implementation of an Integrated Library System (ILS): *Provided further*, That of the total amount appropriated, $10,000,000 is to remain available until expended for salaries and expenses to carry out the Russian Leadership Program enacted on May 21, 1999 (113 Stat. 93 et seq.): *Provided further*, That of the total amount appropriated, $5,957,800 is to remain available until expended for the purpose of teaching educators how to incorporate the Library's digital collections into school curricula, which amount shall be transferred to the educational consortium formed to conduct the "Joining Hands Across America: Local Community Initiative" project as approved by the Library: *Provided further*, That of the total amount appropriated, $404,000 is to remain available until expended for a collaborative digitization and telecommunications project with the United States Military Academy and any remaining balance is available for other Library purposes: *Provided further*, That of the total amount appropriated, $4,300,000 is to remain available until expended for the purpose of developing a high speed data transmission between the Library of Congress and educational facilities, libraries, or networks serving western North Carolina, and any remaining balance is available for support of the Library's Digital Futures initiative.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, $38,523,000, of which not more than $23,500,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2001 under 17 U.S.C. 708(d): *Provided*, That the Copyright Office may not obligate or expend any funds derived from collections under 17 U.S.C. 708(d), in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than $5,783,000 shall be derived from collections during fiscal year 2001 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than $29,283,000: *Provided further*, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than $4,250 may be expended, on the certification of the Librarian of Congress,

in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $48,609,000, of which $14,154,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase, installation, maintenance, and repair of furniture, furnishings, office and library equipment, $4,892,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount of not more than $199,630, of which $59,300 is for the Congressional Research Service, when specifically authorized by the Librarian of Congress, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a)(10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of sections 1535 and 1536 of title 31, United States Code, shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with

official representation and reception expenses for the incentive awards program.

SEC. 205. Of the amount appropriated to the Library of Congress in this Act, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 206. (a) For fiscal year 2001, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $92,845,000.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

SEC. 207. Section 1 of the Act entitled "An Act to authorize acquisition of certain real property for the Library of Congress, and for other purposes", approved December 15, 1997 (2 U.S.C. 141 note) is amended by adding at the end the following new subsection:

"(c) TRANSFER PAYMENT BY ARCHITECT.—Notwithstanding the limitation on reimbursement or transfer of funds under subsection (a) of this section, the Architect of the Capitol may, not later than 90 days after acquisition of the property under this section, transfer funds to the entity from which the property was acquired by the Architect of the Capitol. Such transfers may not exceed a total of $16,500,000.".

SEC. 208. The Librarian of Congress may convert to permanent positions 84 indefinite, time-limited positions in the National Digital Library Program authorized in the Legislative Branch Appropriations Act, 1996 for the Library of Congress under the heading, "Salaries and Expenses" (Public Law 104–53). Notwithstanding any other provision of law regarding qualifications and methods of appointment of employees of the Library of Congress, the Librarian may fill these permanent positions through the non-competitive conversion of the incumbents in the "indefinite-not-to-exceed" positions to "permanent" positions.

SEC. 209. (a) In addition to any other transfer authority provided by law, during fiscal year 2001 and fiscal years thereafter, the Librarian of Congress may transfer to and among available accounts of the Library of Congress amounts appropriated to the Librarian from funds for the purchase, installation, maintenance, and repair of furniture, furnishings, and office and library equipment.

(b) Any amounts transferred pursuant to subsection (a) shall be merged with and be available for the same purpose and for the same period as the appropriation or account to which such amounts are transferred.

(c) The Librarian may transfer amounts pursuant to subsection (a) only with the approval of the Committees on Appropriations of the House of Representatives and Senate.

SEC. 210. (a)(1) This subsection shall apply to any individual who—

(A) is employed by the Library of Congress Child Development Center (known as the "Little Scholars Child Development Center", in this section referred to as the "Center") established under section 205(g)(1) of the Legislative Branch Appropriations Act, 1991; and

(B) makes an election to be covered by this subsection with the Librarian of Congress, not later than the later of—

(i) 60 days after the date of enactment of this Act; or

(ii) 60 days after the date the individual begins such employment.

(2)(A) Any individual described under paragraph (1) may be credited, under section 8411 of title 5, United States Code, for service as an employee of the Center before the date of enactment of this Act, if such employee makes a payment of the deposit under section 8411(f)(2) of such title without application of section 8411(b)(3) of such title.

(B) An individual described under paragraph (1) shall be credited under section 8411 of title 5, United States Code, for any service as an employee of the Center on or after the date of enactment of this Act, if such employee has such amounts deducted and withheld from his pay as determined by the Office of Personnel Management which would be deducted and withheld from the basic pay of an employee under section 8422 of title 5, United States Code.

(3) Notwithstanding any other provision of this subsection, any service performed by an individual described under paragraph (1) as an employee of the Center is deemed to be civilian service creditable under section 8411 of title 5, United States Code, for purposes of qualifying for survivor annuities and disability benefits under subchapters IV and V of chapter 84 of such title, if such individual makes payment of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual if such individual had been an employee subject to section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(4) An individual described under paragraph (1) shall be deemed an employee for purposes of chapter 84 of title 5, United States Code, including subchapter III of such title, and may make contributions under section 8432 of such title effective for the first applicable pay period beginning on or after the date such individual elects coverage under this section.

(5) The Office of Personnel Management shall accept the certification of the Librarian of Congress concerning creditable service for purposes of this subsection.

(b) Any individual who is employed by the Center on or after the date of enactment of this Act shall be deemed an employee under section 8901(1) of title 5, United States Code, for purposes of health insurance coverage under chapter 89 of such title. An individual who is an employee of the Center on the date of enactment of this Act may elect coverage under this subsection before the 60th day after the date of enactment of this Act, and during such periods as determined by the Office of Personnel Management for employees of the Center employed after such date.

(c) An individual who is employed by the Center shall be deemed an employee under section 8701(a) of title 5, United States Code, for purposes of life insurance coverage under chapter 87 of such title.

(d) Government contributions for individuals receiving benefits under this section, as computed under sections 8423, 8432, 8708,

and 8906 shall be made by the Librarian of Congress from any appropriations available to the Library of Congress.

(e) The Library of Congress, directly or by agreement with its designated representative, shall—

(1) process payroll for Center employees, including making deductions and withholdings from the pay of employees in the amounts determined under sections 8422, 8432, 8707, and 8905 of title 5, United States Code;

(2) maintain appropriate personnel and payroll records for Center employees, and transmit appropriate information and records to the Office of Personnel Management; and

(3) transmit funds for Government and employee contributions under this section to the Office of Personnel Management.

(f) The Center shall—

(1) pay to the Library of Congress funds sufficient to cover the gross salary and the employer's share of taxes under section 3111 of the Internal Revenue Code of 1986 for Center employees, in amounts computed by the Library of Congress;

(2) as required by the Library of Congress, reimburse the Library of Congress for reasonable administrative costs incurred under subsection (e)(1);

(3) comply with regulations and procedures prescribed by the Librarian of Congress for administration of this section;

(4) maintain appropriate records on all Center employees, as required by the Librarian of Congress; and

(5) consult with the Librarian of Congress on the administration and implementation of this section.

(g) The Librarian of Congress may prescribe regulations to carry out this section.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $15,970,000, of which $5,000,000 shall remain available until expended.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $27,954,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $175,000: *Provided further*, That amounts of not more than $2,000,000 from current year appropriations are authorized for

producing and disseminating Congressional serial sets and other related publications for 1999 and 2000 to depository and other designated libraries: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not more than $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,285 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the Senate and the House of Representatives): *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further*, That expenses for attendance at meetings shall not exceed $75,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than $10,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section

3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), 901(6), and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6), and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, $384,867,000: *Provided*, That not more than $1,900,000 of payments received under 31 U.S.C. 782 shall be available for use in fiscal year 2001: *Provided further*, That not more than $1,100,000 of reimbursements received under 31 U.S.C. 9105 shall be available for use in fiscal year 2001: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2001 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) 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, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 306. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104–1 to pay awards and settlements as authorized under such subsection.

SEC. 307. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $252,000.

SEC. 308. No part of any appropriation contained in this Act under the heading "Architect of the Capitol" or "Botanic Garden" shall be obligated or expended for a construction contract in excess of $100,000, unless such contract includes a provision that requires liquidated damages for contractor caused delay in an amount commensurate with the daily net usable square foot cost of leasing similar space in a first class office building within two miles of the United States Capitol multiplied by the square footage to be constructed under the contract.

SEC. 309. Section 316 of Public Law 101–302 is amended in the first sentence of subsection (a) by striking "2000" and inserting "2001".

SEC. 310. RUSSIAN LEADERSHIP PROGRAM. Section 3011 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106–31; 113 Stat. 93) is amended—

(1) by striking "fiscal years 1999 and 2000" in subsections (a)(1), (b)(4)(B), (d)(3), and (h)(1)(A) and inserting "fiscal years 2000 and 2001"; and

(2) by striking "2001" in subsection (a)(2), (e)(1), and (h)(1)(B) and inserting "2002".

SEC. 311. (a)(1) Any State may request the Joint Committee on the Library of Congress to approve the replacement of a statue the State has provided for display in Statuary Hall in the Capitol of the United States under section 1814 of the Revised Statutes (40 U.S.C. 187).

(2) A request shall be considered under paragraph (1) only if—

(A) the request has been approved by a resolution adopted by the legislature of the State and the request has been approved by the Governor of the State, and

(B) the statue to be replaced has been displayed in the Capitol of the United States for at least 10 years as of the time the request is made, except that the Joint Committee may waive this requirement for cause at the request of a State.

(b) If the Joint Committee on the Library of Congress approves a request under subsection (a), the Architect of the Capitol shall enter into an agreement with the State to carry out the replacement in accordance with the request and any conditions the Joint Committee may require for its approval. Such agreement shall provide that—

(1) the new statue shall be subject to the same conditions and restrictions as apply to any statue provided by a State under section 1814 of the Revised Statutes (40 U.S.C. 187), and

(2) the State shall pay any costs related to the replacement, including costs in connection with the design, construction, transportation, and placement of the new statue, the removal and transportation of the statue being replaced, and any unveiling ceremony.

(c) Nothing in this section shall be interpreted to permit a State to have more than two statues on display in the Capitol of the United States.

(d)(1) Subject to the approval of the Joint Committee on the Library, ownership of any statue replaced under this section shall be transferred to the State.

(2) If any statue is removed from the Capitol of the United States as part of a transfer of ownership under paragraph (1), then it may not be returned to the Capitol for display unless such display is specifically authorized by Federal law.

(e) The Architect of the Capitol, upon the approval of the Joint Committee on the Library and with the advice of the Commission of Fine Arts as requested, is authorized and directed to relocate within the United States Capitol any of the statues received from the States under section 1814 of the Revised Statutes (40 U.S.C. 187) prior to the date of the enactment of this Act, and to provide for the reception, location, and relocation of the statues received hereafter from the States under such section.

SEC. 312. (a) Section 201 of the Legislative Branch Appropriations Act, 1993 (40 U.S.C. 216c note) is amended by striking "$10,000,000" each place it appears and inserting "$14,500,000".

(b) Section 201 of such Act is amended—

(1) by inserting "(a)" before "Pursuant", and

(2) by adding at the end the following:

"(b) The Architect of the Capitol is authorized to solicit, receive, accept, and hold amounts under section 307E(a)(2) of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c(a)(2)) in excess of the $14,500,000 authorized under subsection (a), but such amounts (and any interest thereon) shall not be expended by the Architect without approval in appropriation Acts as required under section 307E(b)(3) of such Act (40 U.S.C. 216c(b)(3)).".

SEC. 313. CENTER FOR RUSSIAN LEADERSHIP DEVELOPMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the legislative branch of the Government a center to be known as the "Center for Russian Leadership Development" (the "Center").

(2) BOARD OF TRUSTEES.—The Center shall be subject to the supervision and direction of a Board of Trustees which shall be composed of nine members as follows:

(A) Two members appointed by the Speaker of the House of Representatives, one of whom shall be designated by the Majority Leader of the House of Representatives and one of whom shall be designated by the Minority Leader of the House of Representatives.

(B) Two members appointed by the President pro tempore of the Senate, one of whom shall be designated by the Majority Leader of the Senate and one of whom shall be designated by the Minority Leader of the Senate.

(C) The Librarian of Congress.

(D) Four private individuals with interests in improving United States and Russian relations, designated by the Librarian of Congress.

Each member appointed under this paragraph shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term. Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(b) PURPOSE AND AUTHORITY OF THE CENTER.—

(1) PURPOSE.—The purpose of the Center is to establish, in accordance with the provisions of paragraph (2), a program to enable emerging political leaders of Russia at all levels of government to gain significant, firsthand exposure to the American free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States.

(2) GRANT PROGRAM.—Subject to the provisions of paragraphs (3) and (4), the Center shall establish a program under which the Center annually awards grants to government or community organizations in the United States that seek to establish programs under which those organizations will host Russian nationals who are emerging political leaders at any level of government.

(3) RESTRICTIONS.—

(A) DURATION.—The period of stay in the United States for any individual supported with grant funds under the program shall not exceed 30 days.

(B) LIMITATION.—The number of individuals supported with grant funds under the program shall not exceed 3,000 in any fiscal year.

(C) USE OF FUNDS.—Grant funds under the program shall be used to pay—

(i) the costs and expenses incurred by each program participant in traveling between Russia and the United States and in traveling within the United States;

(ii) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(iii) such additional administrative expenses incurred by organizations in carrying out the program as the Center may prescribe.

(4) APPLICATION.—

(A) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to the Center at such time, in such manner, and accompanied by such information as the Center may reasonably require.

(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

(i) describe the activities for which assistance under this section is sought;

(ii) include the number of program participants to be supported;

(iii) describe the qualifications of the individuals who will be participating in the program; and

(iv) provide such additional assurances as the Center determines to be essential to ensure compliance with the requirements of this section.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Russian Leadership Development Center Trust Fund" (the "Fund") which shall consist of amounts which may be appropriated, credited, or transferred to it under this section.

(2) DONATIONS.—Any money or other property donated, bequeathed, or devised to the Center under the authority of this section shall be credited to the Fund.

(3) FUND MANAGEMENT.—

(A) IN GENERAL.—The provisions of subsections (b), (c), and (d) of section 116 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1105 (b), (c), and (d)), and the provisions of section 117(b) of such Act (2 U.S.C. 1106(b)), shall apply to the Fund.

(B) EXPENDITURES.—The Secretary of the Treasury is authorized to pay to the Center from amounts in the Fund such sums as the Board of Trustees of the Center determines are necessary and appropriate to enable the Center to carry out the provisions of this section.

(d) EXECUTIVE DIRECTOR.—The Board shall appoint an Executive Director who shall be the chief executive officer of the Center and who shall carry out the functions of the Center subject to the supervision and direction of the Board of Trustees. The Executive Director of the Center shall be compensated at the annual rate specified by the Board, but in no event shall such rate exceed level III of the Executive Schedule under section 5314 of title 5, United States Code.

(e) ADMINISTRATIVE PROVISIONS.—

(1) IN GENERAL.—The provisions of section 119 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1108) shall apply to the Center.

(2) SUPPORT PROVIDED BY LIBRARY OF CONGRESS.—The Library of Congress may disburse funds appropriated to the Center, compute and disburse the basic pay for all personnel of the Center, provide administrative, legal, financial management, and other appropriate services to the Center, and collect

from the Fund the full costs of providing services under this paragraph, as provided under an agreement for services ordered under sections 1535 and 1536 of title 31, United States Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) TRANSFER OF FUNDS.—Any amounts appropriated for use in the program established under section 3011 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106–31; 113 Stat. 93) shall be transferred to the Fund and shall remain available without fiscal year limitation.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) TRANSFER.—Subsection (g) shall only apply to amounts which remain unexpended on and after the date the Board of Trustees of the Center certifies to the Librarian of Congress that grants are ready to be made under the program established under this section.

SEC. 314. REVIEW OF PROPOSED CHANGES TO EXPORT THRESHOLDS FOR COMPUTERS. Not more than 50 days after the date of the submission of the report referred to in subsection (d) of section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note), the Comptroller General of the United States shall submit an assessment to Congress which contains an analysis of the new computer performance levels being proposed by the President under such section.

TITLE IV—EMERGENCY FISCAL YEAR 2000 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated out of any money in the Treasury not otherwise appropriated, to provide additional emergency supplemental appropriations for the Legislative Branch for the fiscal year ending September 30, 2000, and for other purposes, namely:

CAPITOL POLICE BOARD

SECURITY ENHANCEMENTS

For an additional amount for the Capitol Police Board for costs associated with security enhancements, under the terms and conditions of chapter 5 of title II of division B of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), $2,102,000, to remain available until expended, of which—

(1) $228,000 shall be for the acquisition and installation of card readers for four additional access points which are not currently funded under the implementation of the security enhancement plan; and

(2) $1,874,000 shall be for security enhancements to the buildings and grounds of the Library of Congress:

Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount 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, as amended, is transmitted by the President to the Congress.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

HOUSE OFFICE BUILDINGS

For an additional amount for necessary expenses for urgent repairs to the underground garage in the Cannon House Office Building, $9,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount 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, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for FHA—General and special risk program account for the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended), $40,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent an official budget request, 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, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act: *Provided further*, That the funding under this heading shall only be made available upon the submission of a certification by the Secretary of Housing and Urban Development to the Committees on Appropriations that all funds committed, expended, or obligated under this heading in the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 2000 were committed, expended or obligated in compliance with the Antideficiency Act (31 U.S.C. 1341).

SEC. 401. Appropriations made by this title are available immediately upon enactment of this Act.

This Act may be cited as the "Legislative Branch Appropriations Act, 2001".

APPENDIX C—H.R. 5658

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $3,813,000, to remain available until expended for information technology modernization requirements; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, $156,315,000: *Provided*, That the Office of Foreign Assets Control shall be funded at no less than $11,439,000: *Provided further*, That of these amounts $2,900,000 is available for grants to State and local law enforcement groups to help fight money laundering.

DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENTS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $47,287,000, to remain available until expended: *Provided*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds appropriated shall be used to support or supplement the Internal Revenue Service appropriations for Information Systems.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, $32,899,000.

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed $6,000,000 for official travel expenses; and not to exceed $500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, $118,427,000.

TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, $31,000,000, to remain available until expended.

EXPANDED ACCESS TO FINANCIAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

To develop and implement programs to expand access to financial services for low- and moderate-income individuals, $2,000,000, to remain available until expended: *Provided*, That of these funds, such sums as may be necessary may be transferred to accounts of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, $37,576,000, of which not to exceed $2,800,000 shall remain available until September 30, 2003; and of which $2,275,000 shall remain available

until September 30, 2002: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary, $55,000,000, to remain available until expended, to reimburse any Department of the Treasury organization for the costs of providing support to counter, investigate, or prosecute terrorism, including payment of rewards in connection with these activities: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that 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 such Act is transmitted by the President to the Congress.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $11,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109, $94,483,000, of which up to $17,043,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2003: *Provided*, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the Secretary for law enforcement

training activities in foreign countries undertaken pursuant to section 801 of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–32; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide training for the Gang Resistance Education and Training program to Federal and non-Federal personnel at any facility in partnership with the Bureau of Alcohol, Tobacco and Firearms: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $29,205,000, to remain available until expended.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For expenses necessary to conduct investigations and convict offenders involved in organized crime drug trafficking, including cooperative efforts with State and local law enforcement, as it relates to the Treasury Department law enforcement violations such as money laundering, violent crime, and smuggling, $103,476,000, of which $7,827,000 shall remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $206,851,000, of which not to exceed $10,635,000 shall remain available until September 30, 2003, for information systems modernization initiatives; and of which not to exceed $2,500 shall be available for official reception and representation expenses.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 812 vehicles for police-type use, of which 650 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director;

for payment of per diem and/or subsistence allowances to employees where a major investigative assignment requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $20,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; not to exceed $50,000 for cooperative research and development programs for Laboratory Services and Fire Research Center activities; and provision of laboratory assistance to State and local agencies, with or without reimbursement, $768,695,000, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); of which up to $2,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries including Social Security and Medicare, travel, fuel, training, equipment, supplies, and other similar costs of State and local law enforcement personnel, including sworn officers and support personnel, that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in fiscal year 2001: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase and lease of up to 1,050 motor vehicles of which 550 are for replacement only and of which 1,030 are for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed $40,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any

Act enforced by the United States Customs Service, $1,863,765,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; not to exceed $4,000,000 shall be available until expended for research; of which not less than $100,000 shall be available to promote public awareness of the child pornography tipline; of which not less than $200,000 shall be available for Project Alert; not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081; not to exceed $8,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation; and not to exceed $5,000,000 shall be available until expended for repairs to Customs facilities: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That notwithstanding any other provision of law, the fiscal year aggregate overtime limitation prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be $30,000.

HARBOR MAINTENANCE FEE COLLECTION

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $133,228,000, which shall remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of the Treasury, during fiscal year 2001 without the prior approval of the Committees on Appropriations.

AUTOMATION MODERNIZATION

For expenses not otherwise provided for Customs automated systems, $258,400,000, to remain available until expended, of which $5,400,000 shall be for the International Trade Data System, and not less than $130,000,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the United States Customs Service prepares and submits to the Committees on Appropriations a final plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A–11, part 3; (2) complies with the United States Customs Service's Enterprise Information Systems Architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Customs Investment Review Board, the Department of the Treasury, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office: *Provided further*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until that final expenditure plan has been approved by the Committees on Appropriations.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, $187,301,000, of which not to exceed $2,500 shall be available for official reception and representation expenses, and of which not to exceed $2,000,000 shall remain available until expended for systems modernization: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 2001 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2001 appropriation from the General Fund estimated at $182,901,000. In addition, $23,600, to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380; and in addition, to be appropriated from the General Fund, such sums as may be necessary for administrative expenses in association with the South Dakota Trust Fund and the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration and Lower Brule Sioux Tribe Terrestrial Restoration Trust Fund, as authorized by sections 603(f) and 604(f) of Public Law 106–53.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for tax returns processing; revenue accounting; tax law and account assistance to taxpayers by telephone and correspondence; providing an independent taxpayer advocate within the Service; programs

to match information returns and tax returns; management services; rent and utilities; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,567,001,000, of which up to $3,950,000 shall be for the Tax Counseling for the Elderly Program, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; issuing technical rulings; providing service to tax exempt customers, including employee plans, tax exempt organizations, and government entities; examining employee plans and exempt organizations; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $3,382,402,000, of which not to exceed $1,000,000 shall remain available until September 30, 2003, for research.

EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE

For funding essential earned income tax credit compliance and error reduction initiatives pursuant to section 5702 of the Balanced Budget Act of 1997 (Public Law 105–33), $145,000,000, of which not to exceed $10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing section 1090 of the Taxpayer Relief Act of 1997.

INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,545,090,000 which shall remain available until September 30, 2002.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SEC. 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 103. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

SEC. 104. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective

1–800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 844 vehicles for police-type use, of which 541 shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made side-car compatible motorcycles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $25,000 for official reception and representation expenses; not to exceed $100,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year, $823,800,000, of which $3,633,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2002.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $8,941,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 110. Any obligation or expenditure by the Secretary of the Treasury in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 2001, shall be made in compliance with reprogramming guidelines.

SEC. 111. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 112. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 2001 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 113. Not to exceed 2 percent of any appropriations in this Act made available to the Federal Law Enforcement Training Center, Financial Crimes Enforcement Network, Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, and United States Secret Service may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 114. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices, Office of Inspector General, Treasury Inspector General for Tax Administration, Financial Management Service, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 115. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration's appropriation upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 116. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with Departmental vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 117. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the $1 Federal Reserve note.

SEC. 118. Hereafter, funds made available by this or any other Act may be used to pay premium pay for protective services authorized by section 3056(a) of title 18, United States Code, without regard to the limitation on the rate of pay payable during a pay period contained in section 5547(c)(2) of title 5, United States Code, except that such premium pay shall not be payable to an employee

to the extent that the aggregate of the employee's basic and premium pay for the year would otherwise exceed the annual equivalent of that limitation. The term premium pay refers to the provisions of law cited in the first sentence of section 5547(a) of title 5, United States Code. Payment of additional premium pay payable under this section may be made in a lump sum on the last payday of the calendar year.

SEC. 119. The Secretary of the Treasury may transfer funds from "Salaries and Expenses", Financial Management Service, to the Debt Services Account as necessary to cover the costs of debt collection: *Provided*, That such amounts shall be reimbursed to such Salaries and Expenses account from debt collections received in the Debt Services Account.

SEC. 120. Under the heading of Treasury Franchise Fund in Public Law 104–208, delete the following: the phrases "pilot, as authorized by section 403 of Public Law 103–356,"; and "as provided in such section"; and the final proviso. After the phrase "to be available", insert "without fiscal year limitation,". After the phrase, "established in the Treasury a franchise fund", insert, "until October 1, 2002".

SEC. 121. Notwithstanding any other provision of law, no reorganization of the field operations of the United States Customs Service Office of Field Operations shall result in a reduction in service to the area served by the Port of Racine, Wisconsin, below the level of service provided in fiscal year 2000.

SEC. 122. Notwithstanding any other provision of law, the Bureau of Alcohol, Tobacco and Firearms shall reimburse the subcontractor that provided services in 1993 and 1994 pursuant to Bureau of Alcohol, Tobacco and Firearms contract number TATF 93–3 from amounts appropriated for fiscal year 2001 or unobligated balances from prior fiscal years, and such reimbursement shall cover the cost of all professional services rendered, plus interest calculated in accordance with the Contract Dispute Act of 1978 (41 U.S.C. 601 et seq.).

This title may be cited as the "Treasury Department Appropriations Act, 2001".

TITLE II—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $96,093,000, of which $67,093,000 shall not be available for obligation until October 1, 2001: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate

or close small rural and other small post offices in fiscal year 2001.

This title may be cited as the "Postal Service Appropriations Act, 2001".

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $390,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, $53,288,000: *Provided*, That $9,072,000 of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $10,900,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal

to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit $25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, $968,000, to remain available until expended, for projects for required maintenance, safety and health issues, Presidential transition, telecommunications infrastructure repair, and continued preventive maintenance.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, $3,673,000.

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, $354,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisers in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $4,110,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, $4,032,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $7,165,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, $43,737,000, of which $9,905,000 shall be available until September 30, 2002 for a capital investment plan which provides for the continued modernization of the information technology infrastructure.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $68,786,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of chapter 35 of title 44, United States Code: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may

be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (title VII of division C of Public Law 105–277); not to exceed $8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, $24,759,000, of which $2,100,000 shall remain available until expended, consisting of $1,100,000 for policy research and evaluation, and $1,000,000 for the National Alliance for Model State Drug Laws, and up to $600,000 for the evaluation of the Drug-Free Communities Act: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (title VII of division C of Public Law 105–277), $29,053,000, which shall remain available until expended, consisting of $15,803,000 for counternarcotics research and development projects, and $13,250,000 for the continued operation of the technology transfer program: *Provided*, That the $15,803,000 for counter-narcotics research and development projects shall be available for transfer to other Federal departments or agencies.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $206,500,000 for drug control activities consistent with the approved

strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of the enactment of this Act: *Provided*, That up to 49 percent, to remain available until September 30, 2002, may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided further*, That, of this latter amount, $1,800,000 shall be used for auditing services: *Provided further*, That HIDTAs designated as of September 30, 2000, shall be funded at fiscal year 2000 levels unless the Director submits to the Committees, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the HIDTA program, as well as published ONDCP performance measures of effectiveness.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and other purposes, authorized by Public Law 105–277, $233,600,000, to remain available until expended: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the funds provided, $185,000,000 shall be to support a national media campaign, as authorized in the Drug-Free Media Campaign Act of 1998: *Provided further*, That of the funds provided, $3,300,000 shall be made available to the United States Olympic Committee's anti-doping program no later than 30 days after the enactment of this Act: *Provided further*, That of the funds provided, $40,000,000 shall be to continue a program of matching grants to drug-free communities, as authorized in the Drug-Free Communities Act of 1997: *Provided further*, That of the funds provided, $1,000,000 shall be available to the National Drug Court Institute.

This title may be cited as the "Executive Office Appropriations Act, 2001".

TITLE IV—INDEPENDENT AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28, $4,158,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $40,500,000, of which no less than $4,689,500 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, $25,058,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in, and to be used for the purposes of, the Fund established pursuant to section 210(f) of the Federal Property and Administration Act of 1949, as amended (40 U.S.C. 490(f)), $464,154,000. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally-owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally-owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally-owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of $5,971,509,000 of which: (1) $472,176,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations: California, Los Angeles, United States Courthouse; District

of Columbia, Bureau of Alcohol, Tobacco and Firearms Headquarters; Florida, Saint Petersburg, Combined Law Enforcement Facility; Maryland, Montgomery County, Food and Drug Administration Consolidation; Michigan, Sault St. Marie, Border Station; Mississippi, Biloxi-Gulfport, United States Courthouse; Montana, Eureka/Roosville, Border Station; Virginia, Richmond, United States Courthouse; Washington, Seattle, United States Courthouse: *Provided*, That funding for any project identified above may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2002, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (2) $671,193,000 shall remain available until expended for repairs and alterations which includes associated design and construction services: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project, as follows, except each project may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount:

Repairs and alterations:

Arizona:

Phoenix, Federal Building Courthouse, $26,962,000

California:

Santa Ana, Federal Building, $27,864,000

District of Columbia:

Internal Revenue Service Headquarters (Phase 1), $31,780,000

Main State Building, (Phase 3), $28,775,000

Maryland:

Woodlawn, SSA National Computer Center, $4,285,000

Michigan:

Detroit, McNamara Federal Building, $26,999,000

Missouri:

Kansas City, Richard Bolling Federal Building, $25,882,000

Kansas City, Federal Building, 8930 Ward Parkway, $8,964,000

Nebraska:

Omaha, Zorinsky Federal Building, $45,960,000

New York:

New York City, 40 Foley Square, $5,037,000

Ohio:

Cincinnati, Potter Stewart United States Courthouse, $18,434,000

Pennsylvania:

Pittsburgh, United States Post Office-Courthouse, $54,144,000

Utah:

Salt Lake City, Bennett Federal Building, $21,199,000

Virginia:

Reston, J.W. Powell Federal Building (Phase 2), $22,993,000

Nationwide:
Design Program, $21,915,000
Energy Program, $5,000,000
Glass Fragment Retention Program, $5,000,000
Basic Repairs and Alterations, $290,000,000:
Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance notice is transmitted to the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for "Repairs and Alterations" may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2002, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (3) $185,369,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) $2,944,905,000 for rental of space which shall remain available until expended; and (5) $1,624,771,000 for building operations which shall remain available until expended: *Provided further*, That in addition to amounts made available herein, $276,400,000 shall be deposited to the Fund, to become available on October 1, 2001, and remain available until expended for the following construction projects (including funds for sites and expenses and associated design and construction services): District of Columbia, United States Courthouse Annex; Florida, Miami, United States Courthouse; Massachusetts, Springfield, United States Courthouse; New York, Buffalo, United States Courthouse: *Provided further*, That funding for any project identified above may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts included in an approved prospectus, if required, unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and

Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2001, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,971,509,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation; procurement and supply; Government-wide responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses, $123,920,000, of which $27,301,000 shall remain available until expended: *Provided*, That none of the funds appropriated from this Act shall be available to convert the Old Post Office at 1100 Pennsylvania Avenue in Northwest Washington, D.C., from office use to any other use until a comprehensive plan, which shall include street-level retail use, has been approved by the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Environment and Public Works: *Provided further*, That no funds from this Act shall be available to acquire by purchase, condemnation, or otherwise the leasehold rights of the existing lease with private parties at the Old Post Office prior to the approval of the comprehensive plan by the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Environment and Public Works.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $34,520,000: *Provided*, That not to exceed $15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $2,517,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the Presidential Transition Act of 1963, as amended, $7,100,000.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 2001 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2002 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2002 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under 40 U.S.C. 757 and sections 5124(b) and 5128 of Public Law 104–106, Information Technology Management Reform Act of 1996, for performance of pilot information technology projects which have potential for Governmentwide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 407. From funds made available under the heading "Federal Buildings Fund, Limitations on Availability of Revenue", claims against the Government of less than $250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 408. Section 411 of Public Law 106–58 is amended by striking "April 30, 2001" each place it appears and inserting "April 30, 2002".

SEC. 409. DESIGNATION OF RONALD N. DAVIES FEDERAL BUILDING AND UNITED STATES COURTHOUSE. (a) The Federal building and courthouse located at 102 North 4th Street, Grand Forks, North Dakota, shall be known and designated as the "Ronald N. Davies Federal Building and United States Courthouse".

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in section 1 shall be deemed to be a reference to the Ronald N. Davies Federal Building and United States Courthouse.

SEC. 410. From the funds made available under the heading "Federal Buildings Fund Limitations on Revenue", in addition to amounts provided in budget activities above, up to $2,500,000 shall be available for the construction of a road and acquisition of the property necessary for construction of said road and associated port of entry facilities: *Provided*, That said property shall include a 125 foot wide right-of-way beginning approximately 700 feet east of Highway 11 at the northeast corner of the existing port facilities and going north approximately 4,750 feet and approximately 10.22 acres adjacent to the port of entry in Township 29 S. Range 8W., Section 14: *Provided further*, That construction of the road shall occur only after this property is deeded and conveyed to the United States by and through the General Services Administration without reimbursement or cost to the United States at the election of its current landholder: *Provided further*, That notwithstanding any other provision of law, and subject to the foregoing conditions, the Administrator of General Services shall construct a road to the Columbus, New Mexico Port of Entry Station on the property, connecting the port with a road to be built by the County of Luna, New Mexico to connect to State Highway 11: *Provided further*, That notwithstanding any other provision of law, Luna County shall construct the roadway from State Highway 11 to the terminus of the northbound road to be constructed by the General Services Administration in time for completion of the road to be constructed by the General Services Administration in time for completion of the road to be constructed by the General Services Administration: *Provided further*, That upon completion of the construction of the road by the General Services Administration, and notwithstanding any other provision of law, the Administrator of General Services shall convey to the municipality of Luna County, New Mexico, without reimbursement, all right, title, and interest of the United States to that portion of the property constituting the improved road and standard county road right-of-way which is not required for the operation of the port of entry: *Provided further*, That the General Services Administration on behalf of the United States upon conveyance of the property to the municipality of Luna, New Mexico, shall retain the balance of the property located adjacent to the port, consisting of approximately 12 acres, to be owned

or otherwise managed by the Administrator pursuant to the Federal Property and Administrative Services Act of 1949, as amended: *Provided further*, That the General Services Administration is authorized to acquire such additional real property and rights in real property as may be necessary to construct said road and provide a contiguous site for the port of entry: *Provided further*, That the United States shall incur no liability for any environmental laws or conditions existing at the property at the time of conveyance to the United States or in connection with the construction of the road: *Provided further*, That Luna County and the Village of Columbus shall be responsible for providing adequate access and egress to existing properties east of the port of entry: *Provided further*, That the Bureau of Land Management, the International Boundary and Water Commission, the Federal Inspection Agencies and the Department of State shall take all actions necessary to facilitate the construction of the road and expansion of the port facilities.

SEC. 411. DESIGNATION OF J. BRATTON DAVIS UNITED STATES BANKRUPTCY COURTHOUSE. (a) The United States bankruptcy courthouse at 1100 Laurel Street in Columbia, South Carolina, shall be known and designated as the "J. Bratton Davis United States Bankruptcy Courthouse".

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States bankruptcy courthouse referred to in subsection (a) shall be deemed to be a reference to the "J. Bratton Davis United States Bankruptcy Courthouse".

SEC. 412. (a) The United States Courthouse Annex located at 901 19th Street in Denver, Colorado is hereby designated as the "Alfred A. Arraj United States Courthouse Annex".

(b) Any reference in a law, map, regulation, document, or paper or other record of the United States to the Courthouse Annex herein referred to in subsection (a) shall be deemed to be a reference to the "Alfred A. Arraj United States Courthouse Annex".

SEC. 413. DESIGNATION OF THE PAUL COVERDELL DORMITORY. The dormitory building currently being constructed on the Core Campus of the Federal Law Enforcement Training Center in Glynco, Georgia, shall be known and designated as the "Paul Coverdell Dormitory".

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $29,437,000 together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

FEDERAL PAYMENT TO MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Trust Fund, to be available for the purposes of Public Law 102–252, $2,000,000, to remain available until expended.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, $1,250,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $209,393,000: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, $95,150,000, to remain available until expended of which $88,000,000 is to complete renovation of the National Archives Building.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $6,450,000, to remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses, $9,684,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, $94,095,000; and in addition $101,986,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs, of which $10,500,000 shall remain available until expended for the cost of automating the retirement recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B) and 8909(g) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2001, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $1,360,000; and in addition, not to exceed $9,745,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles, $11,147,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $37,305,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 2001".

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. 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. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 504. None of the funds made available by this Act shall be available in fiscal year 2001 for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Department of the Treasury.

SEC. 505. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 506. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. 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, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to 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. 509. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 510. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 511. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2001 from appropriations made available for salaries and expenses for fiscal year 2001 in this Act, shall remain available through September 30, 2002, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 512. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 513. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93–400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

SEC. 514. (a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Archivist of the United States shall transfer to the Gerald R. Ford Foundation, as trustee, all right, title, and interest of the United States in and to the approximately 2.3 acres of land located within Grand Rapids, Michigan, and further described in subsection (b), such grant to be in trust, with the beneficiary being the National Archives and Records Administration, for the purpose of supporting the facilities and programs of the Gerald R. Ford Museum in Grand Rapids, Michigan, and the Gerald R. Ford Library in Ann Arbor, Michigan, in accordance with a trust agreement to be agreed upon by the Archivist and the Gerald R. Ford Foundation.

(b) LAND DESCRIPTION.—The land to be transferred pursuant to subsection (a) is described as follows:

The following premises in the City of Grand Rapids, County of Kent, State of Michigan, described as:

That part of Block 2, Converse Plat, and that part of Block 2 of J.W. Converse Replatted Addition, and that part of Government Lot 1 of Section 25, T7N, R12W, City of Grand Rapids, Kent County, Michigan, described as: BEGINNING at the NE corner of Lot 1 of Block 2 of Converse Plat; thence East 245.0 feet along the South line of Bridge Street; thence South 230.0 feet along a line which is parallel with and 170 feet East from the East line of Front Avenue as originally platted; thence West 207.5 feet parallel with the South line of Bridge Street; thence South along the centerline of vacated Front Avenue 109 feet more or less to the extended centerline of vacated Douglas Street; thence West along the centerline of vacated Douglas Street 237.5 feet more or less to the East line of Scribner Avenue; thence North along

the East line of Scribner Avenue 327 feet more or less to a point which is 7.0 feet South from the NW corner of Lot 8 of Block 2 of Converse Plat; thence Easterly 200 feet more or less to the place of beginning, also described as:

Parcel A—Lots 9 & 10, Block 2 of Converse Plat, being the subdivision of Government Lots 1 & 2, Section 25, T7N, R12W; also Lots 11–24, Block 2 of J.W. Converse Replatted Addition; also part of N ½ of Section 25, T7N, R12W, commencing at SE corner Lot 24, Block 2 of J.W. Converse Replatted Addition, thence N to NE corner of Lot 9 of Converse Plat, thence E 16 feet, thence S to SW corner of Lot 23 of J.W. Converse Replatted Addition, thence W 16 feet to beginning.

Parcel B—Part of Section 25, T7N, R12W, commencing on S line of Bridge Street 50 feet E of E line of Front Avenue, thence S 107.85 feet, thence 77 feet, thence N to a point on S line of said street which is 80 feet E of beginning, thence W to beginning.

Parcel C—Part of Section 25, T7N, R12W, commencing at SE corner Bridge Street & Front Avenue, thence E 50 feet, thence S 107.85 feet to alley, thence W 50 feet to E line Front Avenue, thence N 106.81 feet to beginning.

Parcel D—Part of Government Lot 1, Section 25, T7N, R12W, commencing at a point on S line of Bridge Street (66′ wide) 170 feet E of E line of Front Avenue (75′ wide), thence S 230 feet parallel with Front Avenue, thence W 170 feet parallel with Bridge Street to E line of Front Avenue, thence N along said line to a point 106.81 feet S of intersection of said line with extension of N & S line of Bridge Street, thence E 127 feet, thence northerly to a point on S line of Bridge Street 130 feet E of E line of Front Avenue, thence E along S line of Bridge Street to beginning.

Parcel E—Lots 1 through 8 of Block 2 of Converse Plat, being the subdivision of Government Lots 1 and 2, Section 25, T7N, R12W.

Also part of N ½ of Section 25, T7N, R12W, commencing at NW corner of Lot 9, Block 2 of J.W. Converse Replatted Addition; thence N 15 feet to SW corner of Lot 8; thence E 200 feet to SE corner Lot 1; thence S 15 feet to NE corner of Lot 10; thence W 200 feet to beginning.

Together with any portion of vacated streets and alleys that have become part of the above property.

(c) TERMS AND CONDITIONS.—

(1) COMPENSATION.—The land transferred pursuant to subsection (a) shall be transferred without compensation to the United States.

(2) APPOINTMENT OF SUCCESSOR TRUSTEE.—In the event that the Gerald R. Ford Foundation for any reason is unable or unwilling to continue to serve as trustee, the Archivist of the United States is authorized to appoint a successor trustee.

(3) REVERSIONARY INTEREST.—If the Archivist of the United States determines that the Gerald R. Ford Foundation (or a successor trustee appointed under paragraph (2)) has breached its fiduciary duty under the trust agreement entered into pursuant to this section, the land transferred pursuant to subsection (a) shall revert to the United States under the administrative jurisdiction of the Archivist.

SEC. 515. (a) IN GENERAL.—The Director of the Office of Management and Budget shall, by not later than September 30,

2001, and with public and Federal agency involvement, issue guidelines under sections 3504(d)(1) and 3516 of title 44, United States Code, that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of chapter 35 of title 44, United States Code, commonly referred to as the Paperwork Reduction Act.

(b) CONTENT OF GUIDELINES.—The guidelines under subsection (a) shall—

(1) apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and

(2) require that each Federal agency to which the guidelines apply—

(A) issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

(B) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

(C) report periodically to the Director—

(i) the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and

(ii) how such complaints were handled by the agency.

SEC. 516. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.

SEC. 517. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol, which was adopted on December 11, 1997, in Kyoto, Japan, at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 518. Not later than July 1, 2001, the Director of the Office of Management and Budget shall submit a report to the Committee on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Appropriations and the Committee on Government Reform of the House of Representatives that: (1) evaluates, for each agency, the extent to which implementation of chapter 35 of title 31, United States Code, as amended by the Paperwork Reduction Act of 1995 (Public Law 104–13), has reduced burden imposed by rules issued by the agency, including the burden imposed by each major rule issued by the agency; (2) includes a determination, based on such evaluation,

of the need for additional procedures to ensure achievement of the purposes of that chapter, as set forth in section 3501 of title 31, United States Code, and evaluates the burden imposed by each major rule that imposes more than 10,000,000 hours of burden, and identifies specific reductions expected to be achieved in each of fiscal years 2001 and 2002 in the burden imposed by all rules issued by each agency that issued such a major rule.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2001 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 604. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of

the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 606. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 607. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 608. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia;

services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 609. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 610. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 611. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 612. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 613. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2001, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury and General Government Appropriations Act, 2000, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2001, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder of fiscal year 2001, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2001 under section 5303 of title 5, United States

Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2001 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 2000 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2000, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2000, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2000.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 615. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations,

to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 616. Notwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for fiscal year 2001 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 617. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 618. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2001 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 619. None of the funds made available in this Act for the United States Customs Service may be used to allow the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 620. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 621. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 622. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, U.S.C. (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section

2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.": *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 623. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 624. (a) IN GENERAL.—For calendar year 2002 and each year thereafter, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

(A) in the aggregate;

(B) by agency and agency program; and

(C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

(1) measures of costs and benefits; and

(2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 625. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 626. Hereafter, the Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.

SEC. 627. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 628. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 629. (a) In this section the term "agency"—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 630. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care's HMO;

(B) Care Choices;

(C) OSF Health Plans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 631. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, funds made available for fiscal year 2001 by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of $800,000 including the salary of the Executive Director and staff support.

SEC. 632. Notwithstanding 31 U.S.C. 1346 and section 610 of this Act, the head of each Executive department and agency is hereby authorized to transfer to the "Policy and Operations" account, General Services Administration, with the approval of the Director of the Office of Management and Budget, funds made available for fiscal year 2001 by this or any other Act, including rebates from charge card and other contracts. These funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives, the Chief Information Officers Council for information technology initiatives, and the Procurement Executives Council for procurement initiatives). The total funds transferred shall not exceed $17,000,000. Such transfers may only be made 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

SEC. 633. (a) IN GENERAL.—In accordance with regulations promulgated by the Office of Personnel Management, an Executive agency which provides or proposes to provide child care services for Federal employees may use appropriated funds (otherwise available to such agency for salaries and expenses) to provide child care, in a Federal or leased facility, or through contract, for civilian employees of such agency.

(b) AFFORDABILITY.—Amounts so provided with respect to any such facility or contractor shall be applied to improve the affordability of child care for lower income Federal employees using or seeking to use the child care services offered by such facility or contractor.

(c) DEFINITION.—For purposes of this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code, but does not include the General Accounting Office.

(d) NOTIFICATION.—None of the funds made available in this or any other Act may be used to implement the provisions of this section absent advance notification to the Committees on Appropriations.

SEC. 634. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 635. Nothwithstanding section 1346 of title 31, United States Code, or section 610 of this Act, funds made available for fiscal year 2001 by this or any other Act shall be available for

the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science; and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 636. RETIREMENT PROVISIONS RELATING TO CERTAIN MEMBERS OF THE POLICE FORCE OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.—(a) QUALIFIED MWAA POLICE OFFICER DEFINED.—For purposes of this section, the term "qualified MWAA police officer" means any individual who, as of the date of the enactment of this Act—

(1) is employed as a member of the police force of the Metropolitan Washington Airports Authority (hereafter in this section referred to as an "MWAA police officer"); and

(2) is subject to the Civil Service Retirement System or the Federal Employees' Retirement System by virtue of section 49107(b) of title 49, United States Code.

(b) ELIGIBILITY TO BE TREATED AS A LAW ENFORCEMENT OFFICER FOR RETIREMENT PURPOSES.—

(1) IN GENERAL.—Any qualified MWAA police officer may, by written election submitted in accordance with applicable requirements under subsection (c), elect to be treated as a law enforcement officer (within the meaning of section 8331 or 8401 of title 5, United States Code, as applicable), and to have all prior service described in paragraph (2) similarly treated.

(2) PRIOR SERVICE DESCRIBED.—The service described in this paragraph is all service which an individual performed, prior to the effective date of such individual's election under this section, as—

(A) an MWAA police officer; or

(B) a member of the police force of the Federal Aviation Administration (hereafter in this section referred to as an "FAA police officer").

(c) REGULATIONS.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this section, including provisions relating to the time, form, and manner in which any election under this section shall be made. Such an election shall not be effective unless—

(1) it is made before the employee separates from service with the Metropolitan Washington Airports Authority, but in no event later than 1 year after the regulations under this subsection take effect; and

(2) it is accompanied by payment of an amount equal to, with respect to all prior service of such employee which is described in subsection (b)(2)—

(A) the employee deductions that would have been required for such service under chapter 83 or 84 of title 5, U.S.C. (as the case may be) if such election had then been in effect, minus

(B) the total employee deductions and contributions under such chapter 83 and 84 (as applicable) that were actually made for such service,

taking into account only amounts required to be credited to the Civil Service Retirement and Disability Fund. Any amount under paragraph (2) shall be computed with interest, in accordance with section 8334(e) of such title 5.

(d) GOVERNMENT CONTRIBUTIONS.—Whenever a payment under subsection (c)(2) is made by an individual with respect to such individual's prior service (as described in subsection (b)(2)), the Metropolitan Washington Airports Authority shall pay into the Civil Service Retirement and Disability Fund any additional contributions for which it would have been liable, with respect to such service, if such individual's election under this section had then been in effect (and, to the extent of any prior FAA police officer service, as if it had then been the employing agency). Any amount under this subsection shall be computed with interest, in accordance with section 8334(e) of title 5, United States Code.

(e) CERTIFICATIONS.—The Office of Personnel Management shall accept, for the purpose of this section, the certification of—

(1) the Metropolitan Washington Airports Authority (or its designee) concerning any service performed by an individual as an MWAA police officer; and

(2) the Federal Aviation Administration (or its designee) concerning any service performed by an individual as an FAA police officer.

(f) REIMBURSEMENT TO COMPENSATE FOR UNFUNDED LIABILITY.—

(1) IN GENERAL.—The Metropolitan Washington Airports Authority shall pay into the Civil Service Retirement and Disability Fund an amount (as determined by the Director of the Office of Personnel Management) equal to the amount necessary to reimburse the Fund for any estimated increase in the unfunded liability of the Fund (to the extent the Civil Service Retirement System is involved), and for any estimated increase in the supplemental liability of the Fund (to the extent the Federal Employees' Retirement System is involved), resulting from the enactment of this section.

(2) PAYMENT METHOD.—The Metropolitan Washington Airports Authority shall pay the amount so determined in five equal annual installments, with interest (which shall be computed at the rate used in the most recent valuation of the Federal Employees' Retirement System).

SEC. 637. (a) For purposes of this section—

(1) the term "comparability payment" refers to a locality-based comparability payment under section 5304 of title 5, United States Code;

(2) the term "President's pay agent" refers to the pay agent described in section 5302(4) of such title; and

(3) the term "pay locality" has the meaning given such term by section 5302(5) of such title.

(b) Notwithstanding any provision of section 5304 of title 5, United States Code, for purposes of determining appropriate pay localities and making comparability payment recommendations, the President's pay agent may, in accordance with succeeding provisions of this section, make comparisons of General Schedule pay and

non-Federal pay within any of the metropolitan statistical areas described in subsection (d)(3), using—

(1) data from surveys of the Bureau of Labor Statistics;

(2) salary data sets obtained under subsection (c); or

(3) any combination thereof.

(c) To the extent necessary in order to carry out this section, the President's pay agent may obtain any salary data sets (referred to in subsection (b)) from any organization or entity that regularly compiles similar data for businesses in the private sector.

(d)(1)(A) This paragraph applies with respect to the five metropolitan statistical areas described in paragraph (3) which—

(i) have the highest levels of nonfarm employment (as determined based on data made available by the Bureau of Labor Statistics); and

(ii) as of the date of the enactment of this Act, have not previously been surveyed by the Bureau of Labor Statistics (as discrete pay localities) for purposes of section 5304 of title 5, United States Code.

(B) The President's pay agent, based on such comparisons under subsection (b) as the pay agent considers appropriate, shall: (i) determine whether any of the five areas under subparagraph (A) warrants designation as a discrete pay locality; and (ii) if so, make recommendations as to what level of comparability payments would be appropriate during 2002 for each area so determined.

(C)(i) Any recommendations under subparagraph (B)(ii) shall be included—

(I) in the pay agent's report under section 5304(d)(1) of title 5, United States Code, submitted for purposes of comparability payments scheduled to become payable in 2002; or

(II) if compliance with subclause (I) is impracticable, in a supplementary report which the pay agent shall submit to the President and the Congress no later than March 1, 2001.

(ii) In the event that the recommendations are completed in time to be included in the report described in clause (i)(I), a copy of those recommendations shall be transmitted by the pay agent to the Congress contemporaneous with their submission to the President.

(D) Each of the five areas under subparagraph (A) that so warrants, as determined by the President's pay agent, shall be designated as a discrete pay locality under section 5304 of title 5, United States Code, in time for it to be treated as such for purposes of comparability payments becoming payable in 2002.

(2) The President's pay agent may, at any time after the 180th day following the submission of the report under subsection (f), make any initial or further determinations or recommendations under this section, based on any pay comparisons under subsection (b), with respect to any area described in paragraph (3).

(3) An area described in this paragraph is any metropolitan statistical area within the continental United States that (as determined based on data made available by the Bureau of Labor Statistics and the Office of Personnel Management, respectively) has a high level of nonfarm employment and at least 2,500 General Schedule employees whose post of duty is within such area.

(e)(1) The authority under this section to make pay comparisons and to make any determinations or recommendations based on such comparisons shall be available to the President's pay agent only for purposes of comparability payments becoming payable on

or after January 1, 2002, and before January 1, 2007, and only with respect to areas described in subsection (d)(3).

(2) Any comparisons and recommendations so made shall, if included in the pay agent's report under section 5304(d)(1) of title 5, United States Code, for any year (or the pay agent's supplementary report, in accordance with subsection (d)(1)(C)(i)(II)), be considered and acted on as the pay agent's comparisons and recommendations under such section 5304(d)(1) for the area and the year involved.

(f)(1) No later than March 1, 2001, the President's pay agent shall submit to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, a report on the use of pay comparison data, as described in subsection (b)(2) or (3) (as appropriate), for purposes of comparability payments.

(2) The report shall include the cost of obtaining such data, the rationale underlying the decisions reached based on such data, and the relative advantages and disadvantages of using such data (including whether the effort involved in analyzing and integrating such data is commensurate with the benefits derived from their use). The report may include specific recommendations regarding the continued use of such data.

(g)(1) No later than May 1, 2001, the President's pay agent shall prepare and submit to the committees specified in subsection (f)(1) a report relating to the ongoing efforts of the Office of Personnel Management, the Office of Management and Budget, and the Bureau of Labor Statistics to revise the methodology currently being used by the Bureau of Labor Statistics in performing its surveys under section 5304 of title 5, United States Code.

(2) The report shall include a detailed accounting of any concerns the pay agent may have regarding the current methodology, the specific projects the pay agent has directed any of those agencies to undertake in order to address those concerns, and a time line for the anticipated completion of those projects and for implementation of the revised methodology.

(3) The report shall also include recommendations as to how those ongoing efforts might be expedited, including any additional resources which, in the opinion of the pay agent, are needed in order to expedite completion of the activities described in the preceding provisions of this subsection, and the reasons why those additional resources are needed.

SEC. 638. FEDERAL FUNDS IDENTIFIED. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds and the amount provided. This provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 639. MANDATORY REMOVAL FROM EMPLOYMENT OF FEDERAL LAW ENFORCEMENT OFFICERS CONVICTED OF FELONIES.

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding after subchapter VI the following:

"SUBCHAPTER VII—MANDATORY REMOVAL FROM EMPLOYMENT OF CONVICTED LAW ENFORCEMENT OFFICERS

"§ 7371. Mandatory removal from employment of law enforcement officers convicted of felonies

"(a) In this section, the term—

"(1) 'conviction notice date' means the date on which an agency that employs a law enforcement officer has notice that the officer has been convicted of a felony that is entered by a Federal or State court, regardless of whether that conviction is appealed or is subject to appeal; and

"(2) 'law enforcement officer' has the meaning given that term under section 8331(20) or 8401(17).

"(b) Any law enforcement officer who is convicted of a felony shall be removed from employment as a law enforcement officer on the last day of the first applicable pay period following the conviction notice date.

"(c)(1) This section does not prohibit the removal of an individual from employment as a law enforcement officer before a conviction notice date if the removal is properly effected other than under this section.

"(2) This section does not prohibit the employment of any individual in any position other than that of a law enforcement officer.

"(d) If the conviction is overturned on appeal, the removal shall be set aside retroactively to the date on which the removal occurred, with back pay under section 5596 for the period during which the removal was in effect, unless the removal was properly effected other than under this section.

"(e)(1) If removal is required under this section, the agency shall deliver written notice to the employee as soon as practicable, and not later than 5 calendar days after the conviction notice date. The notice shall include a description of the specific reasons for the removal, the date of removal, and the procedures made applicable under paragraph (2).

"(2) The procedures under section 7513(b)(2), (3), and (4), (c), (d), and (e) shall apply to any removal under this section. The employee may use the procedures to contest or appeal a removal, but only with respect to whether—

"(A) the employee is a law enforcement officer;

"(B) the employee was convicted of a felony; or

"(C) the conviction was overturned on appeal.

"(3) A removal required under this section shall occur on the date specified in subsection (b) regardless of whether the notice required under paragraph (1) of this subsection and the procedures made applicable under paragraph (2) of this subsection have been provided or completed by that date.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7363 the following:

"SUBCHAPTER VII—MANDATORY REMOVAL FROM EMPLOYMENT OF CONVICTED LAW ENFORCEMENT OFFICERS

"7371. Mandatory removal from employment of law enforcement officers convicted of felonies.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act

and shall apply to any conviction of a felony entered by a Federal or State court on or after that date.

SEC. 640. Section 504 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–346) is repealed.

SEC. 641. (a) Section 5545b(d) of title 5, United States Code, is amended by inserting at the end the following new paragraph:

"(4) Notwithstanding section 8114(e)(1), overtime pay for a firefighter subject to this section for hours in a regular tour of duty shall be included in any computation of pay under section 8114.".

(b) The amendment in subsection (a) shall be effective as if it had been enacted as part of the Federal Firefighters Overtime Pay Reform Act of 1998 (112 Stat. 2681–519).

SEC. 642. Section 6323(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) The minimum charge for leave under this subsection is one hour, and additional charges are in multiples thereof.".

SEC. 643. Section 616 of the Treasury, Postal Service and General Government Appropriations Act, 1988, as contained in the Act of December 22, 1987 (40 U.S.C. 490b), is amended by adding at the end the following:

"(e)(1) All existing and newly hired workers in any child care center located in an executive facility shall undergo a criminal history background check as defined in section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041).

"(2) For purposes of this subsection, the term 'executive facility' means a facility that is owned or leased by an office or entity within the executive branch of the Government (including one that is owned or leased by the General Services Administration on behalf of an office or entity within the judicial branch of the Government).

"(3) Nothing in this subsection shall be considered to apply with respect to a facility owned by or leased on behalf of an office or entity within the legislative branch of the Government.".

SEC. 644. Section 501 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–346) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

SEC. 645. (a)(1) Title 5, United States Code, is amended by inserting after section 5372a the following:

"§ 5372b. Administrative appeals judges

"(a) For the purpose of this section—

"(1) the term 'administrative appeals judge position' means a position the duties of which primarily involve reviewing decisions of administrative law judges appointed under section 3105; and

"(2) the term 'agency' means an Executive agency, as defined by section 105, but does not include the General Accounting Office.

"(b) Subject to such regulations as the Office of Personnel Management may prescribe, the head of the agency concerned shall fix the rate of basic pay for each administrative appeals judge position within such agency which is not classified above GS–15 pursuant to section 5108.

"(c) A rate of basic pay fixed under this section shall be—

"(1) not less than the minimum rate of basic pay for level AL–3 under section 5372; and

"(2) not greater than the maximum rate of basic pay for level AL–3 under section 5372.".

(2) Section 7323(b)(2)(B)(ii) of title 5, United States Code, is amended by striking "or 5372a" and inserting "5372a, or 5372b".

(3) The table of sections for chapter 53 of title 5, United States Code, is amended by inserting after the item relating to section 5372a the following:

"5372b. Administrative appeals judges.".

(b) The amendment made by subsection (a)(1) shall apply with respect to pay for service performed on or after the first day of the first applicable pay period beginning on or after—

(1) the 120th day after the date of the enactment of this Act; or

(2) if earlier, the effective date of regulations prescribed by the Office of Personnel Management to carry out such amendment.

SEC. 646. Not later than 60 days after the date of enactment of this Act, the Inspector General of each department or agency shall submit to Congress a report that discloses any activity of the applicable department or agency relating to—

(1) the collection or review of singular data, or the creation of aggregate lists that include personally identifiable information, about individuals who access any Internet site of the department or agency; and

(2) entering into agreements with third parties, including other government agencies, to collect, review, or obtain aggregate lists or singular data containing personally identifiable information relating to any individual's access or viewing habits for governmental and nongovernmental Internet sites.

This Act may be cited as the "Treasury and General Government Appropriations Act, 2001".

APPENDIX D—H.R. 5666

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2001, and for other purposes, namely:

DIVISION A

CHAPTER 1

GENERAL PROVISIONS—THIS CHAPTER

SEC. 101. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, is amended—

(1) In title III, under the heading "Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account", after "per year" insert ": *Provided further*, That not more than $100,000 shall be available for guarantees of private sector loans".

(2) In title III, at the end of the first proviso under the "Rural Housing Assistance Grants" account, insert "in Mississippi and Alaska".

(3) In section 724, by striking "to Hispanic-serving institutions" and all that follows through "maintained by such institutions" and inserting "to eligible grantees specified in subsection (d)(3) of that section";

(4) In title VIII, under the heading "Rural Community Advancement Program", by striking "January 1, 2001" and inserting "January 1, 2000";

(5) In section 806, by inserting ": *Provided further*, That of the funds made available by this section, the Secretary shall transfer $5,000,000 to the State of Alabama to be used in conjunction with the program administered by the Alabama Department of Agriculture and Industries: *Provided further*, That of the funds made available by this section, the Secretary shall transfer not more than $300,000 to the State of Montana for transportation needs associated with emergency haying and feeding: *Provided further*, That of the funds made available by this section, the Secretary shall use not more than $2,000,000 to carry out a program for income losses sustained before April 30, 2001, by individuals who raise poultry owned by other individuals as a result of Poult Enteritis Mortality Syndrome control programs, as determined by the Secretary" after "American Indian Livestock Feed Program";

(6) In section 815(d)(3), by inserting "affected" after "all";

(7) In section 830, by striking "section 401" and inserting "title IV".

(8) In section 843, by striking "were unable to market the crops" and all that follows through "in this section:" and inserting "suffered a loss because of the insolvency of an agriculture cooperative in the State of California: *Provided*, That the amount of a payment made to a producer under this section shall not exceed 50 percent of the loss referred to in this section:";

(9) In section 844—

(A) in the section heading, by inserting ", FLUE-CURED, AND CIGAR BINDER TYPE 54–55" after "BURLEY"; and

(B) in subsection (a)—

(i) in paragraph (1)—

(I) by inserting ", without further cost to the association," after "settle"; and

(II) by inserting ", Flue-cured, or Cigar Binder Type 54–55" after "Burley" each place it appears;

(ii) in paragraph (2)(B), by inserting ", Flue-cured, Cigar Binder Type 54–55," after "Burley"; and

(iii) in paragraph (3), by striking subparagraph (A) and inserting the following:

"(A) counted for the purpose of determining the Burley, Flue-cured, or Cigar Binder Type 54–55 tobacco quota or allotment for any year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.); or";

(10) Notwithstanding any other provision of law, section 204(b)(10)(B) of Public Law 106–224 shall not be effective until July 1, 2001; and

(11) The effective date of this section is the date of enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001.

SEC. 102. The second sentence of section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by striking "1990 decennial census" and inserting "1990 or 2000 decennial census", and by striking "year 2000" and inserting "year 2010".

SEC. 103. The Secretary of Agriculture, in collaboration with the Secretaries of Energy and Interior, shall undertake a study of the feasibility of including ethanol, biodiesel, and other bio-based fuels as part of the Strategic Petroleum Reserve. This study shall include a review of legislative and regulatory changes needed to allow this inclusion, and those elements necessary to design and implement such a program, including cost. The Secretary shall provide this study to the House and Senate Appropriations Committees by February 15, 2001.

SEC. 104. Notwithstanding section 730 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Public Law 106–78), the City of Wilson, North Carolina, shall be eligible in fiscal year 2001 for the community facility loan guarantee program under section 306(a)(1) of the Consolidated Farm and Rural Development Act.

SEC. 105. Title VIII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, is amended by inserting at the end the following new section:

"SEC. 778. Notwithstanding section 723 of this Act or any other provision of law, there are hereby appropriated $26,000,000, to remain available until expended, for the program authorized under section 334 of the Federal Agriculture Improvement and Reform Act of 1996: *Provided*, That the entire amount shall be available only to the extent an official budget request for $26,000,000, 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, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.".

SEC. 106. In carrying out the bovine tuberculosis eradication program covered by the Secretary of Agriculture's emergency declaration effective as of October 11, 2000, the Secretary of Agriculture shall pay 100 percent of the amounts of approved claims for materials affected by or exposed to bovine tuberculosis, and of approved claims growing out of the destruction of animals: *Provided*, That in calculating the net present value of the future income portion of any claim, the Secretary shall use a discount rate of 7 percent: *Provided further*, That the entire amount necessary to carry out this section shall be available only to the extent that an official budget request for the entire 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, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 107. Section 820(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, is amended by striking "of 1996" and inserting the following: "of 1996, and for the Farmland Protection Program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996".

SEC. 108. For an additional amount for the United States Department of Agriculture, Office of the General Counsel, $500,000: *Provided*, That the entire amount shall be available only to the extent an official budget request for $500,000, 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, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 109. For an additional amount for Grain Inspection, Packers and Stockyards Administration, Salaries and Expenses, $200,000: *Provided*, That the entire amount shall be available only to the extent an official budget request for $200,000, 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, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 110. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide financial and

technical assistance to the Hamakua Ditch project in Hawaii from funds available for the Emergency Watershed Program, not to exceed $3,000,000.

CHAPTER 2

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $500,000, to remain available until expended: *Provided*, That these funds are to be expended by the National Institute of Corrections (NIC) for a comprehensive assessment of medical care and incidents of inmate mortality in the Wisconsin State Prison System.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice Assistance", $300,000, to remain available until expended: *Provided*, That these funds are to be expended to expand the collection of data on prisoner deaths while in law enforcement custody.

COMMUNITY ORIENTED POLICING SERVICES

For an additional amount for "Community Oriented Policing Services", $3,080,000, to remain available until expended, of which $1,880,000 shall be for a grant to the Pasadena, California, Police Department for equipment; of which $200,000 shall be for a grant to the City of Signal Hill, California, for equipment and technology for an emergency operations center; and of which $1,000,000 shall be for a grant to the State of Alabama Department of Forensic Sciences for equipment.

JUVENILE JUSTICE PROGRAMS

For an additional amount for "Juvenile Justice Programs", $1,000,000, to remain available until expended, for a grant to Mobile County, Alabama, for a juvenile court network program.

GENERAL PROVISIONS

SEC. 201. Chapter 2 of title II of division B of Public Law 106–246 (114 Stat. 542) is amended in the matter immediately under the first heading—

(1) by inserting, "(or the State, in the case of New Mexico)" before "only"; and

(2) by inserting, "detention costs," after "court costs,".

SEC. 202. For an additional amount under the heading "United States Attorneys, Salaries and Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, $10,000,000 for the State of Texas and $2,000,000 for the State of Arizona, to reimburse county and municipal governments only for Federal costs associated with the handling and processing of illegal immigration and drug and alien smuggling

cases, such reimbursements being limited to court costs, detention costs, courtroom technology, the building of holding spaces, administrative staff, and indigent defense costs.

SEC. 203. In addition to amounts appropriated under the heading "State and Local Law Enforcement Assistance, Office of Justice Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, $9,000,000 is for an award to the Alliance of Boys & Girls of South Carolina for the establishment of the Strom Thurmond Boys & Girls Club National Training Center.

SEC. 204. In addition to any amounts made available for "State and Local Law Enforcement Assistance" within the Department of Justice, $500,000 shall be made available only for the New Hampshire Department of Safety to investigate and support the prosecution of violations of Federal trucking laws.

SEC. 205. In addition to other amounts made available for the COPS technology program of the Department of Justice, $4,000,000 shall be available to the State of South Dakota to establish a regional radio system to facilitate communications between Federal, State, and local law enforcement agencies, firefighting agencies, and other emergency services agencies.

DEPARTMENT OF COMMERCE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $200,000, to remain available until expended, for the establishment of satellite accounts for the travel and tourism industry.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $750,000, to remain available until expended, for a study by the National Academy of Sciences pursuant to H.R. 2090, as passed by the House of Representatives on September 12, 2000.

GENERAL PROVISIONS

SEC. 206. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted by section 1(a)(2) of the Act entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2001, and for other purposes" is amended by inserting before the period at the end of the paragraph under the heading "National Oceanic and Atmospheric Administration, Operations, Research, and Facilities" the following new proviso: ": *Provided further*, That, of the amounts made available for the National Marine Fisheries Service under this heading, $10,000,000 shall be available only for research regarding litigation concerning the Alaska Steller sea lion and Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries, of which $6,000,000 shall be available only for the Office of Oceanic

and Atmospheric Research to study the impact of ocean climate shifts on the North Pacific and Bering Sea fish and marine mammal species composition, of which $2,000,000 shall be available only for the National Ocean Service to study predator/prey relationships as they relate to the decline of the western population of Steller sea lions, and of which $2,000,000 shall be available only for the North Pacific Fishery Management Council for an independent analysis of Steller sea lion science and other work related to such litigation".

SEC. 207. (a) In addition to amounts appropriated or otherwise made available under the heading "Operations, Research, and Facilities, National Oceanic and Atmospheric Administration" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, $7,500,000 is appropriated for disaster assistance for communities affected by the 2000 western Alaska salmon disaster for which the Secretary of Commerce declared a fishery failure under section 312(a) of the Magnuson Stevens Fisheries Conservation and Management Act.

(b) Funds appropriated by this section shall be made available as direct lump sum payments no later than 30 days after the date of enactment of this Act, as follows: $3,500,000 to the Tanana Chiefs Conference, $3,500,000 to the Association of Village Council Presidents, and $500,000 to Kawerak.

(c) Such funds shall be used to provide personal assistance with priority given to: (1) food; (2) energy needs; (3) housing assistance; (4) transportation fuel including for subsistence activities; and (5) other urgent community needs.

(d) Not more than 5 percent of such funds may be used for administrative expenses.

(e) The President of the Tanana Chiefs Conference, the President of the Association of Village Council Presidents, and the President of Kawerak shall disburse all funds no later than May 1, 2000 and shall submit a report to the Secretary of Commerce detailing the expenditure of funds, including the number of persons and households served and the amount of administrative costs, by the end of the fiscal year.

SEC. 208. In addition to amounts appropriated or otherwise made available by this or any other Act, $3,000,000 is appropriated to enable the Secretary of Commerce to provide economic assistance to fishermen and fishing communities affected by Federal closures and fishing restrictions in the Hawaii long line fishery, to remain available until expended.

SEC. 209. IMPLEMENTATION OF STELLER SEA LION PROTECTIVE MEASURES.—

(a) FINDINGS.—The Congress finds that—

(1) the western population of Steller sea lions has substantially declined over the last 25 years.

(2) scientists should closely research and analyze all possible factors relating to such decline, including the possible interactions between commercial fishing and Steller sea lions and the localized depletion hypothesis;

(3) the authority to manage commercial fisheries in Federal waters lies with the regional councils and the Secretary of Commerce (hereafter in this section "Secretary") pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (hereafter in this section "Magnuson-Stevens Act"); and

(4) the Secretary of Commerce shall comply with the Magnuson-Stevens Act when using fishery management plans and regulations to implement the decisions made pursuant to findings under the Endangered Species Act, and shall utilize the processes and procedures of the regional fishery management councils as required by the Magnuson-Stevens Act.

(b) INDEPENDENT SCIENTIFIC REVIEW.—The North Pacific Fishery Management Council (hereafter in this section "North Pacific Council) shall utilize the expertise of the National Academy of Sciences to conduct an independent scientific review of the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries (hereafter in this section "Biological Opinion"), its underlying hypothesis, and the Reasonable and Prudent Alternatives (hereafter in this section "Alternatives") contained therein. The Secretary shall cooperate with the independent scientific review, and the National Academy of Sciences is requested to give its highest priority to this review.

(c) PREPARATION OF FISHERY MANAGEMENT PLANS AND REGULATIONS TO IMPLEMENT PROTECTIVE MEASURES IN THE NOVEMBER 30, 2000 BIOLOGICAL OPINION.—

(1) The Secretary of Commerce shall submit to the North Pacific Council proposed conservation and management measures to implement the Alternatives contained in the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries. The North Pacific Council shall prepare and transmit to the Secretary a fishery management plan amendment or amendments to implement such Alternatives that are consistent with the Magnuson-Stevens Act (including requirements in such Act relating to best available science, bycatch reduction, impacting on fishing communities, the safety of life at sea, and public comment and hearings.)

(2) The Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in a manner consistent with the Alternatives contained in the Biological Opinion, except as otherwise provided in this section. The Alternatives shall become fully effective no later than January 1, 2002, as revised if necessary and appropriate based on the independent scientific review referred to in subsection (b) and other new information, and shall be phased in in 2001 as described in paragraph (3).

(3) The 2001 Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in accordance with the fishery management plan and Federal regulations in effect for such fisheries prior to July 15, 2000, including—

(A) conservative total allowable catch levels;

(B) no entry zones within three miles of rookeries;

(C) restricted harvest levels near rookeries and haulouts;

(D) federally-trained observers;

(E) spatial and temporal harvest restrictions;

(F) federally-mandated bycatch reduction programs; and

(G) additional conservation benefits provided through cooperative fishing arrangements,

and said regulations are hereby restored to full force and effect.

(4) The Secretary shall amend these regulations by January 20, 2001, after consultation with the North Pacific Council and in a manner consistent with all law, including the Magnuson-Stevens Act, and consistent with the Alternatives to the maximum extent practicable, subject to the other provisions of this subsection.

(5) The harvest reduction requirement ("Global Control Rule") shall take effect immediately in any 2001 groundfish fishery in which it applies, but shall not cause a reduction in the total allowable catch of any fishery of more than 10 percent.

(6) In enforcing regulations for the 2001 fisheries, the Secretary, upon recommendation of the North Pacific Council, may open critical habitat where needed, adjust seasonal catch levels, and take other measures as needed to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999.

(7) The regulations that are promulgated pursuant to paragraph (4) shall not be modified in any way other than upon recommendation of the North Pacific Council, before March 15, 2001.

(d) SEA LION PROTECTION MEASURES.—$20,000,000 is hereby appropriated to the Secretary of Commerce to remain available until expended to develop and implement a coordinated, comprehensive research and recovery program for the Steller sea lion, which shall be designed to study—

(1) available prey species;

(2) predator/prey relationships;

(3) predation by other marine mammals;

(4) interactions between fisheries and Steller sea lions, including the localized depletion theory;

(5) regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea;

(6) disease;

(7) juvenile and pup survival rates;

(8) population counts;

(9) nutritional stress;

(10) foreign commercial harvest of sealions outside the exclusive economic zone;

(11) the residual impacts of former government-authorized Steller sea lion eradication bounty programs; and

(12) the residual impacts of intentional lethal takes of Steller sea lions.

Within available funds the Secretary shall implement on a pilot basis innovative non-lethal measures to protect Steller sea lions from marine mammal predators including killer whales.

(e) ECONOMIC DISASTER RELIEF.—$30,000,000 is hereby appropriated to the Secretary of Commerce to make available as a direct payment to the Southwest Alaska Municipal Conference to distribute to fishing communities, businesses, community development quota groups, individuals, and other entities to mitigate the economic losses caused by Steller sea lion protection measures heretofore incurred; provided that the President of such organization shall provide a written report to the Secretary and the House

and Senate Appropriations Committee within 6 months of receipt of these funds.

DEPARTMENT OF STATE AND RELATED AGENCY

GENERAL PROVISIONS

SEC. 210. In addition to any amounts made available for "Educational and Cultural Exchange Programs within the Department of State", $500,000 shall be made available only for the Irish Institute.

SEC. 211. In addition to amounts appropriated under the heading "International Broadcasting Operations, Broadcasting Board of Governors" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, $10,000,000 to remain available until expended, for increased broadcasting to Russia and surrounding areas, and to China, by Radio Free Europe/Radio Liberty, Radio Free Asia, and the Voice of America: *Provided*, That any amount of such funds may be transferred to the "Broadcasting Capital Improvements" account to carry out such purposes.

RELATED AGENCIES

COMMISSION ON ONLINE CHILD PROTECTION

For necessary expenses of the Commission on Online Child Protection, $750,000, to remain available until expended.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,000,000 shall be available for a grant to the Electronic Commerce Resource Center in Scranton, Pennsylvania, to establish an electronic commerce technology distribution center.

GENERAL PROVISION

SEC. 212. For an additional amount for "Small Business Administration, Salaries and Expenses", $1,000,000 shall be made available only for a grant to the National Museum of Jazz in New York, New York.

GENERAL PROVISION—THIS CHAPTER

SEC. 213. (a) The provisions of H.R. 5548 (as enacted into law by H.R. 4942 of the 106th Congress) are amended as follows:

(1) In title I, under the heading "Salaries and Expenses, United States Marshals Service", by striking "3,947" and inserting "4,034".

(2) In title I, by redesignating sections 114 through 119 as sections 113 through 118, respectively.

(3) In title II, under the heading "National Oceanic and Atmospheric Administration—Operations, Research, and Facilities", by striking "$31,439,000" and inserting "$32,054,000".

(4) In title II, under the heading "National Oceanic and Atmospheric Administration—Coastal and Ocean Activities"—

(A) by striking "non-contiguous States except Hawaii" and inserting "Alaska";

(B) by striking "Inc," and inserting "Inc.,";

(C) by striking "scrup;" and inserting "scrub;"; and

(D) by striking "watershed for lower Rouge River restoration:" and inserting "watershed:".

(5) In title IV, by striking section 406 and by redesignating sections 407 and 408 as sections 406 and 407, respectively.

(6) In title VI, by striking sections 635 and 636.

(7) In title IX, in the first proviso of section 901, by striking ", territory or an Indian Tribe" and inserting "or territory".

(b) The amendments made by this section shall take effect as if included in H.R. 4942 of the 106th Congress on the date of its enactment.

CHAPTER 3

DEPARTMENT OF DEFENSE

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. In the event that award of the full funding contract for low-rate initial production of the F–22 aircraft is delayed beyond December 31, 2000 because of inability to complete the requirements specified in section 8124 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), the Secretary of the Air Force may obligate up to $353,000,000 of the funds appropriated in title III of Public Law 106–259 to continue F–22 Lot 1 (10 aircraft) advance procurement to protect the supplier base and preserve program costs and schedule.

SEC. 302. (a) Consistent with Executive Order Number 1733, dated March 3, 1913, and notwithstanding section 303 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, or any other law, the Department of the Air Force shall have primary jurisdiction, custody, and control over Shemya Island and its appurtenant waters (including submerged lands). In exercising such primary jurisdiction, custody, and control, the Secretary of the Air Force may utilize and apply such authorities as are generally applicable to a military installation, base, camp, post, or station. Shemya Island and its appurtenant waters (including submerged lands) shall continue to be included within the Alaska Maritime National Wildlife Refuge and the National Wildlife Refuge System and the Secretary of the Interior shall have jurisdiction secondary to that of the Department of the Air Force. Nothing in this section shall prohibit the transfer of jurisdiction, custody, and control over Shemya Island by the Department of the Air Force to another military department. In the event the military department exercising such primary jurisdiction, custody, and control no longer has a need to exercise such primary jurisdiction, custody, and control of Shemya Island and its appurtenant waters (including submerged lands), such jurisdiction, custody, and control shall terminate and the Secretary of the Interior shall then exercise sole jurisdiction, custody, and control over Shemya Island and its appurtenant waters (including submerged lands) as part of the Alaska Maritime National Wildlife Refuge.

(b) Any environmental contamination of Shemya Island caused by a military department shall be the responsibility of that military

department and not the responsibility of the Department of the Interior. Any money rentals received by a military department from outgrants on Shemya Island will be applied to the environmental restoration of the island in accordance with 10 U.S.C. 2667.

(c) This section shall not be construed as altering any existing property rights of the State of Alaska or any private person.

(d) The military department exercising primary jurisdiction, custody, and control over Shemya Island shall, consistent with the accomplishment of the military mission and subject to section 21 of the Internal Security Act of 1950, Public Law 81–831 (50 U.S.C. 797) (also known as the Subversive Activities Control Act of 1950)—

(1) work with the United States Fish and Wildlife Service to protect and conserve the wildlife and habitat on the island; and

(2) grant access to Shemya Island and its appurtenant waters to the United States Fish and Wildlife Service for the purpose of management of the Alaska Maritime National Wildlife Refuge.

SEC. 303. Within the funds appropriated for the Patriot PAC–3 program under title III of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), the Ballistic Missile Defense Organization shall procure no less than 40 PAC–3 missiles.

SEC. 304. Section 8133 of Public Law 106–259 (114 Stat. 703) is amended by striking "$300,000,000" in the first proviso and inserting "$550,000,000".

(TRANSFER OF FUNDS)

SEC. 305. Of the total amount appropriated by title II of the Department of Defense Appropriations Act, 2001 (Public Law 106–259) for operation and maintenance for the Armed Force or Armed Forces under the jurisdiction of the Secretary of a military department, the Secretary of that military department may transfer up to $2,000,000 to the central fund established by the Secretary under section 2493(d) of title 10, United States Code, for funding Fisher Houses and Fisher Suites. Amounts so transferred shall be merged with other amounts in the central fund to which transferred and shall be available without fiscal year limitation for the purposes for which amounts in that fund are available.

SEC. 306. FUNDING FOR CERTAIN COSTS OF VESSEL TRANSFERS. There is hereby appropriated into the Defense Vessels Transfer Program Account such sums as may be necessary for the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by the National Defense Authorization Act, 2001. Funds in that account are available only for the purpose of covering those costs.

SEC. 307. Of the total amount appropriated by title IV of the Department of Defense Appropriations Act, 2001 (Public Law 106–259) under the heading "Research, Development, Test and Evaluation, Defense-Wide", not less than $5,000,000 shall be made available only for support of a Gulf War illness research program at the University of Texas Southwestern Medical Center.

(INCLUDING TRANSFER OF FUNDS)

SEC. 308. In addition to amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act,

2001 (Public Law 106–259), $150,000,000 is hereby appropriated for "Operation and Maintenance, Navy" and shall remain available until expended, only for costs associated with the repair of the U.S.S. COLE: *Provided*, That the Secretary of Defense may transfer these funds to appropriations accounts for procurement: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the welfare of the crew, and of the families of the crew, of the U.S.S. COLE shall be considered in the Navy's selection of the process and location for the repair of the U.S.S. COLE: *Provided further*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 309. Notwithstanding any other provision of law, the Administrator of the General Services Administration may utilize funds available to the National Science and Technology Council (authorized by Executive Order No. 12881), or any successor entity to the council, under section 635 of the Treasury and General Government Appropriations Act, 2001, for payment of any expenses of, and shall ensure that administrative services, facilities, staff and other support are provided for, the Commission on the Future of the United States Aerospace Industry pursuant to section 1092(e)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by section 1 of the Act to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes).

SEC. 310. In addition to funds provided elsewhere in this Act, or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $2,000,000 is hereby appropriated to "Operation and Maintenance, Marine Corps", only for planning and National Environmental Protection Act documentation for the proposed airfield and heliport at the Marine Corps Air Ground Task Force Training Command.

(TRANSFER OF FUNDS)

SEC. 311. Of the funds made available in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), the Secretary of the Air Force shall transfer $5,000,000 of the funds provided for "Operation and Maintenance, Air Force" to the Secretary of the Interior for maintenance, protection, or preservation of the land and interests in land described in section 3 of the Minuteman Missile National Historic Site Establishment Act of 1999 (Public Law 106–115; 113 Stat. 1540): *Provided*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense for fiscal year 2001.

SEC. 312. (a) The Secretary of the Air Force is authorized to convey to the Roosevelt General Hospital, Portales, New Mexico, without consideration, and without regard to title II of the Federal Property and Administrative Services Act of 1949, all right, title,

and interest of the United States in any personal property of the Air Force that the Secretary determines—

(1) is appropriate for use by the Roosevelt General Hospital in the operation of that hospital; and

(2) is excess to the needs of the Air Force.

(b) The Secretary may require any additional terms and conditions in connection with any conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

(INCLUDING TRANSFER OF FUNDS)

SEC. 313. In addition to amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $100,000,000 is hereby appropriated for "Overseas Contingency Operations Transfer Fund" and shall remain available until expended: *Provided*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act: *Provided further*, That funds appropriated by this section, or made available by the transfer of funds in this section, for intelligence activities are deemed to be specifically authorized by the Congress for the purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2001: *Provided further*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 314. Of the total amount appropriated by title IV of the Department of Defense Appropriations Act, 2001 (Public Law 106–259) under the heading "Research, Development, Test and Evaluation, Navy", up to $3,000,000 shall be made available to the Marine Corps to pursue research in Nanotechnology for Consequence Management.

SEC. 315. Of the total amount appropriated by title IV of the Department of Defense Appropriations Act, 2001 (Public Law 106–259) under the heading "Research, Development, Test and Evaluation, Army", not less than $1,500,000 shall be made available only for installation of the Medical Area Network for Virtual Technologies at Fort Detrick and Walter Reed Army Hospital, and not less than $1,000,000 shall be made available only to conduct a pilot study to determine the feasibility of establishing a Department of Defense Information Analysis Center for telemedicine.

SEC. 316. The Secretary of the Navy shall acquire 50 acres of real property located on Reed Island, along the south shore of the St. John's River across from Blount Island Command, Jacksonville, Florida. The Secretary of the Navy shall pay not more than the fair market value of the property, to be determined pursuant to an appraisal acceptable to the Secretary of the Navy;

but in no case shall the price exceed $4,200,000: *Provided*, That the exact acreage and legal description of the real property to be acquired pursuant to this section shall be determined by a survey satisfactory to the Secretary of the Navy: *Provided further*, That the Secretary of the Navy may require such additional terms and conditions in connection with the land acquisition pursuant to this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 317. Of the total amount appropriated by title IV of the Department of Defense Appropriations Act, 2001 (Public Law 106–259) under the heading "Research, Development, Test, and Evaluation, Navy" the Secretary of the Navy may establish Marine Fire Training Centers at the Marine and Environmental Research and Training Station and Barbers Point by grants or contracts.

SEC. 318. Notwithstanding any other provision of law, and notwithstanding the provisions in section 7306 of title 10, United States Code, of the funds provided in the Department of Defense Appropriations Act, 2001 (Public Law 106–259) for "Operation and Maintenance, Navy", $750,000 shall be available only for repair of ex-Turner Joy.

SEC. 319. In addition to amounts appropriated or otherwise made available for the Department of Defense elsewhere in this Act or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $2,000,000 is hereby appropriated under the heading "Operation and Maintenance, Defense-Wide", to remain available for obligation until September 30, 2001, only for the Defense Imagery and Mapping Agency Program.

SEC. 320. None of the funds available in the Department of Defense Appropriations Act, 2001 (Public Law 106–259) shall be used to consolidate or incorporate Air Force radar operations maintenance and support programs or contracts into an Air Force SENSOR or a similar acquisition program.

SEC. 321. In addition to amounts appropriated elsewhere in this Act, or in the Department of Defense Appropriations Act, 2001 (Public Law 106–259), $1,000,000 is hereby appropriated to "Research, Development, Test and Evaluation, Air Force", only to develop rapid diagnostic and fingerprinting techniques along with molecular monitoring systems for the detection of nosocomial infections.

SEC. 322. Of the total amount appropriated by title IV of the Department of Defense Appropriations Act, 2001 (Public Law 106–259) under the heading "Research, Development, Test and Evaluation, Navy", $1,500,000 shall be made available by grant or contract only to the California Central Coast Research Partnership (C3RP).

SEC. 323. FORT IRWIN NATIONAL TRAINING CENTER EXPANSION.

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

(1) The National Training Center at Fort Irwin, California, is the only instrumented training area in the world suitable for live fire training of heavy brigade-sized military forces and thus provides the Army with essential training opportunities necessary to maintain and improve military readiness and promote national security.

(2) The National Training Center must be expanded to meet the critical need of the Army for additional training lands suitable for the maneuver of large numbers of military personnel and equipment, which is necessitated by advances

in equipment, by doctrinal changes, and by Force XXI doctrinal experimentation requirements.

(3) The lands being considered for expansion of the National Training Center are home to the desert tortoise and other species that are protected under the Endangered Species Act of 1973, and the Secretary of Defense and the Secretary of the Interior, in developing a plan for expansion of the National Training Center, must provide for such expansion in a manner that complies with the Endangered Species Act of 1973, the National Environmental Policy Act of 1969, and other applicable laws.

(4) In order for the expansion of the National Training Center to be implemented on an expedited basis, the Secretaries should proceed without delay to define with specificity the key elements of the expansion plan, including obtaining early input regarding national security requirements, Endangered Species Act of 1973 compliance and mitigation, and National Environmental Policy Act of 1969 compliance.

(b) PURPOSE.—The purpose of this section is to expedite the expansion of the National Training Center at Fort Irwin, California, in a manner that is fully compliant with environmental laws.

(c) PREPARATION OF PROPOSED EXPANSION PLAN.—

(1) PREPARATION REQUIRED.—The Secretary of the Army and the Secretary of the Interior (in this section referred to as the "Secretaries") shall jointly prepare a proposed plan for the expansion of the National Training Center at Fort Irwin, California.

(2) SUBMISSION AND AVAILABILITY.—The plan required by paragraph (1) (in this section referred to as the "proposed expansion plan") shall be completed not later than 120 days after the date of the enactment of this Act. When completed, the Secretaries shall make the proposed expansion plan available to the public and shall publish in the Federal Register a "notice of availability" concerning the proposed expansion plan.

(d) KEY ELEMENTS OF PROPOSED EXPANSION PLAN.—

(1) JOINT REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretaries shall submit to Congress a joint report that identifies the key elements of the proposed expansion plan.

(2) LANDS WITHDRAWAL AND RESERVATION.—The proposed expansion plan shall include the withdrawal and reservation of an appropriate amount of public lands for—

(A) the conduct of combined arms military training at the National Training Center;

(B) the development and testing of military equipment at the National Training Center;

(C) other defense-related purposes; and

(D) conservation and research purposes.

(3) CONSERVATION MEASURES.—The proposed expansion plan shall also include a general description of conservation measures, anticipated to cost approximately $75,000,000, that may be necessary and appropriate to protect and promote the conservation of the desert tortoise and other endangered or threatened species and their critical habitats in designated wildlife management areas in the West Mojave Desert. The conservation measures may include—

(A) the establishment of one or more research natural areas, which may include lands both within and outside the National Training Center;

(B) the acquisition of private and State lands within the wildlife management areas in the West Mojave Desert;

(C) the construction of barriers, fences, and other structures that would promote the conservation of endangered or threatened species and their critical habitats;

(D) the funding of research studies; and

(E) other conservation measures.

(d) PRELIMINARY REVIEW OF EXPANSION PLAN.—

(1) REVIEW REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service shall submit to the Secretaries a preliminary review of the proposed expansion plan (as developed as of that date). In the preliminary review, the Director shall identify, with as much specificity as possible, an approach for implementing the proposed expansion plan consistent with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(2) RELATION TO FORMAL REVIEW.—The preliminary review under paragraph (1) shall not constitute a formal consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), but shall be used to assist the Secretaries in more precisely defining the nature and scope of an expansion plan for the National Training Center that is likely to satisfy requirements of the Endangered Species Act of 1973 and to expedite the formal consultation process under section 7 of such Act.

(3) CONSIDERATION OF PRELIMINARY REVIEW.—In preparing the proposed expansion plan, the Secretaries shall take into account the content of the preliminary review by the Director of the United States Fish and Wildlife Service under paragraph (1).

(e) DRAFT LEGISLATION.—The Secretaries shall submit to Congress with the proposed expansion plan a draft of proposed legislation providing for the withdrawal and reservation of public lands for the expansion of the National Training Center. It is the sense of the Congress that the proposed legislation should contain a provision that, if enacted, would prohibit ground-disturbing military use of the land to be withdrawn and reserved by the legislation until the Secretaries have certified that there has been full compliance with the appropriate provisions of the legislation, the Endangered Species Act of 1973, the National Environmental Policy Act of 1969, and other applicable laws.

(f) CONSULTATION UNDER ENDANGERED SPECIES ACT OF 1973.—The Secretaries shall initiate the formal consultation required under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) with respect to expansion of the National Training Center as soon as practicable and shall complete such consultation not later than 2 years after the date of the enactment of this Act.

(g) ENVIRONMENTAL REVIEW.—Not later than 6 months following completion of the formal consultation required under section 7 of the Endangered Species Act of 1973 with respect to expansion of the National Training Center, the Secretaries shall complete any analysis required under the National Environmental Policy Act of 1969 with respect to the proposed expansion of the National Training Center. The analysis shall be coordinated, to the extent

practicable and appropriate, with the review of the West Mojave Coordinated Management Plan that, as of the date of the enactment of this Act, is being undertaken by the Bureau of Land Management.

(h) FUNDING.—

(1) IMPLEMENTATION OF CONSERVATION MEASURES.—There are authorized to be appropriated $75,000,000 to the Secretary of the Army for the implementation of conservation measures necessary for the final expansion plan for the National Training Center to comply with the Endangered Species Act of 1973.

(2) IMPLEMENTATION OF SECTION.—The amounts of $2,500,000 for "Operation and Maintenance, Army" and $2,500,000 for "Management of Lands and Resources, Bureau of Land Management" are hereby appropriated to the Secretary of the Army and the Secretary of the Interior, respectively, only to undertake and complete on an expedited basis the activities specified in this section.

CHAPTER 4

DISTRICT OF COLUMBIA FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For an additional amount for the District of Columbia courts for capital repairs necessitated by the recent fire damage to the courthouse facilities, $350,000, to remain available until September 30, 2002, and for an additional amount for such repairs for the Superior Court of the District of Columbia, $50,000: *Provided*, That after providing notice to the Committees on Appropriations of the Senate and House of Representatives, the District of Columbia courts may reallocate not more than $1,000,000 of the funds provided under this heading under the District of Columbia Appropriations Act, 2001, among the items and entities funded under such heading for the costs of such repairs.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 401. (a) Section 106(b) of the District of Columbia Public Works Act of 1954 (sec. 43–1552(b), D.C. Code), as amended by section 133 of the District of Columbia Appropriations Act, 1990, is amended—

(1) in the third sentence of paragraph (1), by striking "United States Treasury and" and all that follows through "by the"; and

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

"(5) Not later than the 15th day of the month following each quarter (beginning with the first quarter of fiscal year 2001), the inspector general of each Federal department, establishment, or agency receiving water services from the District of Columbia shall submit a report to the Committees on Appropriations of the House of Representatives and Senate analyzing the promptness of payment with respect to the services furnished to such department, establishment, or agency.".

(b) Section 212(b) of the District of Columbia Public Works Act of 1954 (sec. 43–1612(b), D.C. Code), as amended by section 133 of the District of Columbia Appropriations Act, 1990, is amended—

(1) in the third sentence of paragraph (1), by striking "United States Treasury and" and all that follows through "by the"; and

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

"(5) Not later than the 15th day of the month following each quarter (beginning with the first quarter of fiscal year 2001), the inspector general of each Federal department, establishment, or agency receiving sanitary sewer services from the District of Columbia shall submit a report to the Committees on Appropriations of the House of Representatives and Senate analyzing the promptness of payment with respect to the services furnished to such department, establishment, or agency.".

(c) The amendments made by this section shall take effect as if included in the enactment of section 133 of the District of Columbia Appropriations Act, 1990.

SEC. 402. (a) The Act entitled "An Act donating certain Lots in the City of Washington for Schools for Colored Children in the District of Columbia", approved July 28, 1866 (14 Stat. 343), is amended by striking the second sentence.

(b) Section 319 of the Revised Statutes of the United States relating to the District of Columbia and Post Roads (sec. 31–206, D.C. Code) is repealed.

SEC. 403. RESTRICTIONS ON USE OF ANNUAL UNOBLIGATED BALANCE IN D.C. CRIME VICTIMS COMPENSATION FUND. (a) IN GENERAL.—Section 16(d) of the Victims of Violent Crime Compensation Act of 1996 (sec. 3–435(d), D.C. Code), as added by section 160(d) of the District of Columbia Appropriations Act, 2000, is amended to read as follows:

"(d) Any unobligated balance existing in the Fund in excess of $250,000 as of the end of each fiscal year (beginning with fiscal year 2000) may be used only in accordance with a plan developed by the District of Columbia and approved by the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate, and not less than 80 percent of such balance shall be used for direct compensation payments to crime victims through the Fund under this section and in accordance with this Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect September 30, 2000.

SEC. 404. (a) Notwithstanding any provision of the District of Columbia Appropriations Act, 2001, the District of Columbia may fund the programs identified under the heading "Reserve" in H.R. 4942, One Hundred Sixth Congress, as introduced, subject to the conditions described under such heading and upon certification by the District of Columbia Financial Responsibility and Management Assistance Authority to the Committees on Appropriations of the Senate and House of Representatives that the Chief Financial Officer of the District of Columbia, the Mayor of the District of Columbia, and the Council of the District of Columbia have identified and implemented such spending reductions as may be necessary to ensure that the District of Columbia will not have a budget deficit for fiscal year 2001.

(b)(1) Notwithstanding any provision of the District of Columbia Appropriations Act, 2001, the use by the District of the funds described in paragraph (2) for Pay-As-You-Go Capital Funds shall be optional.

(2) The funds described in this paragraph are funds set aside for the reserve established by section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by section 148 of the District of Columbia Appropriations Act, 2000) which are not used for purposes of any reserve funds established under the District of Columbia Appropriations Act, 2001, or any amendments made by such Act.

(c)(1) The Mayor of the District of Columbia shall deposit the annual interest savings resulting from debt reductions using the proceeds of the tobacco securitization program into the emergency reserve fund established under section 450A of the District of Columbia Home Rule Act (as added by section 159 of the District of Columbia Appropriations Act, 2001).

(2) This subsection shall apply with respect to fiscal year 2001 and each succeeding fiscal year until the requirements of section 450A of the District of Columbia Home Rule Act have been met.

SEC. 405. (a) Notwithstanding any provision of the District of Columbia Appropriations Act, 2001, quarterly disbursements shall be calculated and paid to District of Columbia public charter schools during fiscal year 2001 in accordance with section 107a(b) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools and Tax Conformity Clarification Amendment Act of 1998 (sec. 31–2906.1(b), D.C. Code), as amended by the Enrollment Integrity Act.

SEC. 406. (a) The provisions of H.R. 5547 (as enacted into law by H.R. 4942 of the 106th Congress) are repealed and shall be deemed for all purposes (including section 1(b) of H.R. 4942) to have never been enacted.

(b) The repeal made by this section shall take effect as if included in H.R. 4942 of the 106th Congress on the date of its enactment.

CHAPTER 5

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

For an additional amount for "General Investigations", $900,000, to remain available until expended: *Provided*, That $100,000 shall be available for a reconnaissance study of shore protection needs at North Topsail Beach, North Carolina; $100,000 shall be available for a reconnaissance study for the Passiac County, New Jersey, water infrastructure project; $100,000 shall be available for a reconnaissance study of flooding, drainage and other related problems in the Cayuga Creek Watershed, New York; and $600,000 shall be available for a cost-shared feasibility study of the restoration of the lower St. Anthony's Falls natural rapids in Minnesota.

CONSTRUCTION, GENERAL

For an additional amount for "Construction, General", $2,750,000, to remain available until expended: *Provided*, That $75,000 shall be available for planning and design of a project to provide for floodplain evacuation in the watershed of Pond Creek, Kentucky; $100,000 shall be available for design of recreation and access features at the Louisville Waterfront Park in Kentucky; $500,000 shall be available for a Limited Reevaluation Report for the Central Boca Raton segment of the Palm Beach County, Florida, shore protection project; and $75,000 shall be available to conduct research on the eradication of Eurasian water milfoil at Houghton Lake, Michigan: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use $2,000,000 of the funds appropriated herein to initiate design and construction of the Hawaii Water Management Project, including Waiahole Ditch on Oahu, Kau Ditch on Maui, Pioneer Mill Ditch on Hawaii, and the complex system on the west side of Kauai: *Provided further*, That the Secretary of the Army may use up to $5,000,000 of previously appropriated funds to carry out the Abandoned and Inactive Noncoal Mine Restoration program authorized by section 560 of Public Law 106–53.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for "Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee", $3,500,000, to remain available until expended, for prosecuting work of repair, restoration or maintenance of the Mississippi River levees, and for the correction of deficiencies in the mainline Mississippi River levees.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for "Water and Related Resources", $2,000,000, to remain available until expended, for construction of the Mid-Dakota Rural Water System, in addition to amounts made available under the Energy and Water Appropriations Development Act, 2001.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For an additional amount for "Energy Supply", $800,000, to remain available until expended, for the Prime, LLC, of central South Dakota, for final engineering and project development of the integrated ethanol complex, including an ethanol unit, waste treatment system, and enclosed cattle feed lot.

SCIENCE

For an additional amount for "Science", $1,000,000, to remain available until expended, for high temperature superconducting research and development at Boston College.

CHAPTER 6

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. Of the funds appropriated under the heading Department of State, International Narcotics Control and Law Enforcement, in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, not less than $1,350,000 shall be available only for the Protection Project to continue its study of international trafficking, prostitution, slavery, debt bondage, and other abuses of women and children.

SEC. 602. EMBASSY COMPENSATION AUTHORITY. Funds made available under the heading "Other Bilateral Economic Assistance, Economic Support Fund" included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106–429) may be made available, notwithstanding any other provision of law, to provide payment to the Government of the People's Republic of China for property loss and damage arising out of the May 7, 1999 incident in Belgrade, Federal Republic of Yugoslavia.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

LAND ACQUISITION

For an additional amount for "Land Acquisition", $5,000,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, to carry out the provisions of title VI of the Steens Mountain Cooperative Management and Protection Act (Public Law 106–399): *Provided*, That sums necessary to complete the individual land exchanges identified under title VI shall be provided within 30 days of each land exchange.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", $500,000 for a grant to the Center for Reproductive Biology at Washington State University.

MULTINATIONAL SPECIES CONSERVATION FUND

For an additional amount for the "Multinational Species Conservation Fund", $750,000, to remain available until expended, for Great Ape conservation activities authorized by law.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $100,000 for completion of studies related to the Arlington Boathouse in Virginia.

NATIONAL RECREATION AND PRESERVATION

For an additional amount for "National Recreation and Preservation", $1,600,000, to remain available until expended, of which $500,000 is for the National Constitution Center in Philadelphia, Pennsylvania and $1,100,000 is for a grant to the Historic New Bridge Landing Park Commission.

HISTORIC PRESERVATION FUND

For an additional amount for the "Historic Preservation Fund", $100,000 for a grant to the Massillon Heritage Foundation, Inc. in Massillon, Ohio.

CONSTRUCTION

For an additional amount for "Construction", $3,500,000, to remain available until expended, of which $1,500,000 is for the Stones River National Battlefield and $2,000,000 is for the Millennium Cultural Cooperative Park.

DEPARTMENT OF ENERGY

ENERGY CONSERVATION

For an additional amount for "Energy Conservation", $300,000, to remain available until expended, for a grant to the Oak Ridge National Laboratory/Nevada Test Site Development Corporation for the development of: (1) cooling, refrigeration, and thermal energy management equipment capable of using natural gas or hydrogen fuels; and (2) improvement of the reliability of heat-activated cooling, refrigeration, and thermal energy management equipment used in combined heating, cooling, and power applications.

RELATED AGENCY

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

PAYMENT TO ENDOWMENT FUND

For payment to the endowment fund of the Woodrow Wilson International Center for Scholars $5,000,000: *Provided*, That such funds may be invested in investments approved by the Board of Trustees of the Woodrow Wilson International Center for Scholars and the income from such investments may be used to support the programs of the Center that the Board of Trustees and the Director of the Center determine appropriate.

GENERAL PROVISION—THIS CHAPTER

SEC. 701. In addition to amounts appropriated in Public Law 106–291 to the Indian Health Service under the heading "Indian

Health Services", $30,000,000, to remain available until expended, is appropriated as follows:

(1) $15,000,000 shall be provided to the Alaska Federation of Natives as a direct lump sum payment within 30 days of enactment of this Act for its Alaska Native Sobriety and Alcohol Control Program: *Provided*, That the President of the Alaska Federation of Natives shall make grants to each Alaska Native regional non-profit corporation (as listed in section 103(a)(2) of Public Law 104–193 (110 Stat. 2159)) in which there are villages, including established villages and organized cities under State law, that have voted to ban the sale, importation, or possession of alcohol pursuant to local option State law: *Provided further*, That such grants shall be used to: (1) employ Village Public Safety Officers (hereinafter referred to as "VPSO's") under such terms and conditions that encourage retention of such VPSO's and that are consistent with agreements with the State of Alaska for the provision of such VPSO services; (2) acquisition of law enforcement equipment or services; or (3) develop and implement restorative justice programs recognized under State sentencing law as a community-based complement or alternative to incarceration or other penalty: *Provided further*, That funds may also be used for activities and programs to further the sobriety movement including education and treatment. The President of the Alaska Federation of Natives shall submit a report on its activities and those of its grantees including administrative costs and persons served by December 31, 2001; and

(2) $15,000,000 shall be provided to the Indian Health Service for drug and alcohol prevention and treatment services for non-Alaska tribes.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

SEC. 801. There are appropriated to the Health Resources and Services Administration in the Department of Health and Human Services, for the construction of the Biotechnology Science Center at the Marshall University in Huntington, West Virginia, $25,000,000, to remain available until expended.

SEC. 802. There are appropriated to the Health Resources and Services Administration in the Department of Health and Human Services, for the construction of the Christian Nurses Hospice in Brentwood, New York, $400,000.

SEC. 803. There are appropriated to the Institute of Museum and Library Services, for expansion of the marine biology program at the Long Island Maritime Museum, $250,000.

CHAPTER 9

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECREASED MEMBERS OF CONGRESS

For payment to Laura Y. Bateman, widow of Herbert H. Bateman, late a Representative from the State of Virginia, $141,300.

For payment to Susan L. Vento, widow of Bruce F. Vento, late a Representative from the State of Minnesota, $141,300.

For payment to Betty Lee Dixon, widow of Julian C. Dixon, late a Representative from the State of California, $141,300.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

SALARIES AND EXPENSES

For an additional amount for "CAPITOL BUILDINGS AND GROUNDS—CAPITOL BUILDINGS—SALARIES AND EXPENSES" for necessary expenses for construction of emergency egress from the fourth floor of the Capitol Building, $1,033,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For the Library of Congress, $25,000,000, to remain available until expended, for necessary salaries and expenses of the National Digital Information Infrastructure and Preservation Program; and an additional $75,000,000, to remain available until expended, for such purposes: *Provided*, That the portion of such additional $75,000,000, which may be expended shall not exceed an amount equal to the matching contributions (including contributions other than money) for such purposes that: (1) are received by the Librarian of Congress for the program from non-Federal sources; and (2) are received before March 31, 2003: *Provided further*, That such program shall be carried out in accordance with a plan or plans approved by the Committee on House Administration of the House of Representatives, the Committee on Rules and Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate: *Provided further*, That of the total amount appropriated, $5,000,000 may be expended before the approval of a plan to develop such a plan, and to collect or preserve essential digital information which otherwise would be uncollectible: *Provided further*, That the

balance in excess of such $5,000,000 shall not be expended without approval in advance by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate: *Provided further*, That the plan under this heading shall be developed by the Librarian of Congress jointly with entities of the Federal Government with expertise in telecommunications technology and electronic commerce policy (including the Secretary of Commerce and the Director of the White House Office of Science and Technology Policy) and the National Archives and Records Administration, and with the participation of representatives of other Federal, research, and private libraries and institutions with expertise in the collection and maintenance of archives of digital materials (including the National Library of Medicine, the National Agricultural Library, the National Institute of Standards and Technology, the Research Libraries Group, the Online Computer Library Center, and the Council on Library and Information Resources) and representatives of private business organizations which are involved in efforts to preserve, collect, and disseminate information in digital formats (including the Open e-Book Forum): *Provided further*, That notwithstanding any other provision of law, effective with the One Hundred Seventh Congress and each succeeding Congress the chair of the Subcommittee on the Legislative Branch of the Committee on Appropriations of the House of Representatives shall serve as a member of the Joint Committee on the Library with respect to the Library's financial management, organization, budget development and implementation, and program development and administration, as well as any other element of the mission of the Library of Congress which is subject to the requirements of Federal law.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 901. RETIREMENT CREDIT FOR CERTAIN LEGISLATIVE BRANCH EMPLOYEES. (a) FORMER EMPLOYEES OF CONGRESSIONAL CAMPAIGN COMMITTEES.—

(1) CSRS.—Section 8332(m) of title 5, United States Code, as amended by section 312 of the Legislative Branch Appropriations Act, 2000, is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Upon application to the Office of Personnel Management, any individual who was an employee on the date of enactment of this paragraph, and who has on such date or thereafter acquires 5 years or more of creditable civilian service under this section (exclusive of service for which credit is allowed under this subsection) shall be allowed credit (as service as a congressional employee) for service before December 31, 1990, while employed by the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee, if—

"(A) such employee has at least 4 years and 6 months of service on such committees as of December 31, 1990; and

"(B) such employee makes a deposit to the Fund in an amount equal to the amount which would be required under

section 8334(c) if such service were service as a congressional employee.".

(2) FERS.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) Upon application to the Office of Personnel Management, any individual who was an employee on the date of enactment of this paragraph, and who has on such date or thereafter acquired 5 years or more of creditable civilian service under this section (exclusive of service for which credit is allowed under this subsection) shall be allowed credit (as service as a congressional employee) for service before December 31, 1990, while employed by the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee, if—

"(A) such employee has at least 4 years and 6 months of service on such committees as of December 31, 1990; and

"(B) such employee deposits to the Fund an amount equal to 1.3 percent of the base pay for such service, with interest.

"(2) The Office shall accept the certification of the President of the Senate (or the President's designee) or the Speaker of the House of Representatives (or the Speaker's designee), as the case may be, concerning the service of, and the amount of compensation received by, an employee with respect to whom credit is to be sought under this subsection.

"(3) An individual shall not be granted credit for such service under this subsection if eligible for credit under section 8332(m) for such service.".

(b) FORMER EMPLOYEES OF LEGISLATIVE SERVICE ORGANIZATIONS.—

(1) SERVICE OF EMPLOYEES OF LEGISLATIVE SERVICE ORGANIZATIONS.—

(A) IN GENERAL.—Subject to succeeding provisions of this paragraph, upon application to the Office of Personnel Management in such form and manner as the Office shall prescribe, any individual who performed service as an employee of a legislative service organization of the House of Representatives (as defined and authorized in the One Hundred Third Congress) and whose pay was paid in whole or in part by a source other than the Clerk Hire account of a Member of the House of Representatives (other than an individual described in paragraph (6)) shall be entitled—

(i) to receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (whichever would be appropriate), as congressional employee service, for all such service; and

(ii) to have all pay for such service which was so paid by a source other than the Clerk Hire account of a Member included (in addition to any amounts otherwise included in basic pay) for purposes of computing an annuity payable out of the Civil Service Retirement and Disability Fund.

(B) DEPOSIT REQUIREMENT.—In order to be eligible for the benefits described in subparagraph (A), an individual shall be required to pay into the Civil Service Retirement

and Disability Fund an amount equal to the difference between—

(i) the employee contributions that were actually made to such Fund under applicable provisions of law with respect to the service described in subparagraph (A); and

(ii) the employee contributions that would have been required with respect to such service if the amounts described in subparagraph (A)(ii) had also been treated as basic pay.

The amount required under this subparagraph shall include interest, which shall be computed under section 8334(e) of title 5, United States Code.

(C) CERTAIN OFFSETS REQUIRED IN ORDER TO PREVENT DOUBLE CONTRIBUTIONS AND BENEFITS.—In the case of any period of service as an employee of a legislative service organization which constituted employment for purposes of title II of the Social Security Act—

(i) any pay for such service (as described in subparagraph (A)(ii)) with respect to which the deposit under subparagraph (B) would otherwise be computed by applying the first sentence of section 8334(a)(1) of title 5, United States Code, shall instead be computed in a manner based on section 8334(k) of such title; and

(ii) any retirement benefits under subchapter III of chapter 83 of title 5, United States Code, shall be subject to offset (to reflect that portion of benefits under title II of the Social Security Act attributable to pay referred to in subparagraph (A)) similar to that provided for under section 8349 of such title.

(2) SURVIVOR ANNUITANTS.—For purposes of survivor annuities, an application authorized by this section may, in the case of an individual under paragraph (1) who has died, be made by a survivor of such individual.

(3) RECOMPUTATION OF ANNUITIES.—Any annuity or survivor annuity payable as of when an individual makes the deposit required under paragraph (1) shall be recomputed to take into account the crediting of service under such paragraph for purposes of amounts accruing for any period beginning on or after the date on which the individual makes the deposit.

(4) CERTIFICATION OF SPEAKER.—The Office of Personnel Management shall accept the certification of the Speaker of the House of Representatives (or the Speaker's designee) concerning the service of, and the amount of compensation received by, an employee with respect to whom credit is to be sought under this subsection.

(5) NOTIFICATION AND OTHER DUTIES OF THE OFFICE OF PERSONNEL MANAGEMENT.—

(A) NOTICE.—The Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals of any rights they might have as a result of enactment of this subsection.

(B) ASSISTANCE.—The Office shall, on request, assist any individual in obtaining from any department, agency, or other instrumentality of the United States any information in the possession of such instrumentality which may

be necessary to verify the entitlement of such individual to have any service credited under this subsection or to have an annuity recomputed under paragraph (3).

(C) INFORMATION.—Any department, agency, or other instrumentality of the United States which possesses any information with respect to an individual's performance of any service described in paragraph (1) shall, at the request of the office, furnish such information to the Office.

(6) EXCLUSION OF CERTAIN EMPLOYEES.—An individual is not eligible for credit under this subsection if the individual served as an employee of the House of Representatives for an aggregate period of 5 years or longer after the individual's final period of service as an employee of a legislative service organization of the House of Representatives.

(7) MEMBER DEFINED.—In this subsection, the term "Member of the House of Representatives" includes a Delegate or Resident Commissioner to Congress.

SEC. 902. (a) The Legislative Branch Appropriations Act, 2001 is amended under the subheading "MISCELLANEOUS ITEMS" under the heading "SENATE" under title I by striking "$8,655,000" and inserting "$25,155,000".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2001.

SEC. 903. Beginning on the first day of the 107th Congress, the Presiding Officer of the Senate shall apply all of the precedents of the Senate under Rule XXVIII in effect at the conclusion of the 103d Congress. Further that there is now in effect a Standing order of the Senate that the reading of conference reports is no longer required, if the said conference report is available in the Senate.

CHAPTER 10

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1001. In addition to amounts appropriated or otherwise made available in the Military Construction Appropriations Act, 2001, $43,500,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2005, as follows:

"Military Construction, Army", $27,000,000;

"Military Construction, Air Force", $12,000,000;

"Military Construction, Army National Guard", $4,500,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design, military construction, and family housing projects not otherwise authorized by law.

SEC. 1002. TRANSFER OF JURISDICTION, MELROSE AIR FORCE RANGE, NEW MEXICO. (a) TRANSFER REQUIRED.—(1) The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Air Force the surface estate in the real property described in paragraph (2), which consists of 6,713.90 acres of public domain lands in Roosevelt County, New Mexico.

(2) The transfer of administrative jurisdiction under paragraph (1) encompasses the following sections (or portions thereof):

(A) In Township 1 North, Range 30 East, New Mexico Prime Meridian:
(i) Sec. 2 (S½).
(ii) Sec. 11. All.
(iii) Sec. 20 (S½SE¼).
(iv) Sec. 28. All.
(B) In Township 1 South, Range 30 East, New Mexico Prime Meridian:
(i) Sec. 2 (Lots 1–12, S½).
(ii) Sec. 3 (Lots 1–12, S½).
(iii) Sec. 4 (Lots 1–12, S½).
(iv) Sec. 6 (Lots 1 and 2).
(v) Sec. 9 (N½, N½S½).
(vi) Sec. 10 (N½, N½S½).
(vii) Sec. 11 (N½, N½S½).
(C) In Township 2 North, Range 30 East, New Mexico Prime Meridian:
(i) Sec. 20 (E½S¼).
(ii) Sec. 21 (SW¼, W½SE¼).
(iii) Sec. 28 (W½E½, W½).
(iv) Sec. 29 (E½E½).
(v) Sec. 32 (E½E½).
(vi) Sec. 33 (W½E½, NW¼, S½SW¼).

(b) STATUS OF SURFACE ESTATE.—Upon transfer under subsection (a), the surface estate is deemed to be real property subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) WITHDRAWAL OF MINERAL ESTATE.—Subject to valid existing rights, the mineral estate of the lands described in subsection (a) are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601 et seq.).

(d) USE OF MINERAL MATERIALS.—Notwithstanding subsection (c) or the Act of July 31, 1947, the Secretary of the Air Force may use, without application to the Secretary of the Interior, the sand, gravel, or similar mineral material resources on the lands described in subsection (a), of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs on the Melrose Air Force Range, New Mexico.

SEC. 1003. TRANSFER OF JURISDICTION, YAKIMA TRAINING CENTER, WASHINGTON. (a) TRANSFER REQUIRED.—(1) The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Army the surface estate in the real property described in paragraph (2), which consists of 6,640.02 acres of public domain lands in Kittitas County, Washington.

(2) The transfer of administrative jurisdiction under paragraph (1) encompasses the following sections (or portions thereof):
(A) In Township 17 North, Range 20 East, Willamette Meridian:
(i) Sec. 22 (S½).
(ii) Sec. 24 (S½SW¼ and that portion of the E½ lying south of the Interstate Highway 90 right-of-way).
(iii) Sec. 26. All.
(B) In Township 16 North, Range 21 East, Willamette Meridian:

(i) Sec. 4 (SW¼SW¼).
(ii) Sec. 12 (SE¼).
(iii) Sec. 18 (Lots 1, 2, 3, and 4, E½ and E½W½).

(C) In Township 17 North, Range 21 East, Willamette Meridian:
(i) Sec. 30 (Lots 3 and 4).
(ii) Sec. 32 (NE¼SE¼).

(D) In Township 16 North, Range 22 East, Willamette Meridian:
(i) Sec. 2 (Lots 1, 2, 3, and 4, S½N½ and S½).
(ii) Sec. 4 (Lots 1, 2, 3, and 4, S½N½ and S½).
(iii) Sec. 10. All.
(iv) Sec. 14. All.
(v) Sec. 20 (SE¼SW¼).
(vi) Sec. 22. All.
(vii) Sec. 26 (N½).
(viii) Sec. 28 (N½).

(E) In Township 16 North, Range 23 East, Willamette Meridian:
(i) Sec. 18 (Lots 3 and 4, E½SW¼, W½SE¼, and that portion of the E½SE¼ lying westerly of the westerly right-of-way line of Huntzinger Road).
(ii) Sec. 20 (That portion of the SW¼ lying westerly of the easterly right-of-way line of the railroad).
(iii) Sec. 30 (Lots 1 and 2, NE¼ and E½NW¼).

(b) STATUS OF SURFACE ESTATE.—Upon transfer under subsection (a), the surface estate is deemed to be real property subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) WITHDRAWAL OF MINERAL ESTATE.—(1) Subject to valid existing rights, the mineral estate of the lands described in subsection (a), as well as the additional lands described in paragraph (2), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the geothermal leasing laws, but not the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601, et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) The additional lands referred to in paragraph (1) consist of 3,090.80 acres in the following sections (or portions thereof):

(A) In Township 16 North, Range 20 East, Willamette Meridian:
(i) Sec. 12. All.
(ii) Sec. 18 (Lot 4 and SE¼).
(iii) Sec. 20 (S½).

(B) In Township 16 North, Range 21 East, Willamette Meridian:
(i) Sec. 4 (Lots 1, 2, 3, and 4, S½NE¼).
(ii) Sec. 8. All.

(C) In Township 16 North, Range 22 East, Willamette Meridian:
(i) Sec. 12. All.

(D) In Township 17 North, Range 21 East, Willamette Meridian:
(i) Sec. 32 (S½SE¼).
(ii) Sec. 34 (W½).

(d) USE OF MINERAL MATERIALS.—Notwithstanding subsection (c) or the Act of July 31, 1947, the Secretary of the Army may

use, without application to the Secretary of the Interior, the sand, gravel, or similar mineral material resources on the lands described in subsections (a) and (c), of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs on the Yakima Training Center, Washington.

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1101. Section 5309(g)(4)(D)(2) of title 49, United States Code, is amended by striking "light".

SEC. 1102. Item number 630 of the table contained in section 1602 of the Transportation Act for the 21st Century (112 Stat. 280), relating to Buffalo, New York, is amended by striking "Design and construct Outer Harbor Bridge in Buffalo" and inserting "Transportation infrastructure improvements, Inner Harbor/ Redevelopment project, Buffalo".

SEC. 1103. If the State of Arkansas incorporates into the relocation of U.S. Route 71 through Fort Chaffee, Arkansas, land obtained by the State from the Federal Government as a result of the closure of a military installation, the Secretary of Transportation shall credit to the State share of the cost of the relocation the fair market value of such land .

SEC. 1104. For an additional amount to enable the Secretary of Transportation to make a grant to the Huntsville International Airport, $2,500,000, to be derived from the airport and airway trust fund, to remain available until expended.

SEC. 1105. Notwithstanding any other provision of law, for necessary expenses for the Southeast Light Rail Extension Project in Dallas, Texas, $1,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended.

SEC. 1106. Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) is amended by striking paragraph (38) and replacing it with the following—

"(38) The Ports-to-Plains Corridor from Laredo, Texas, via I–27 to Denver, Colorado, shall include:

"(A) In the State of Texas the Ports-to-Plains Corridor shall generally follow—

"(i) I–35 from Laredo to United States Route 83 at Exit 18;

"(ii) United States Route 83 from Exit 18 to Carrizo Springs;

"(iii) United States Route 277 from Carrizo Springs to San Angelo;

"(iv) United States Route 87 from San Angelo to Sterling City;

"(v) From Sterling City to Lamesa, the Corridor shall follow United States Route 87 and, the Corridor shall also follow Texas Route 158 from Sterling City to I–20, then via I–20 West to Texas Route 349 and, Texas Route 349 from Midland to Lamesa;

"(vi) United States Route 87 from Lamesa to Lubbock;

"(vii) I–27 from Lubbock to Amarillo; and

"(viii) United States Route 287 from Amarillo to Dumas.

"(B) The corridor designation contained in paragraph (A) shall take effect only if the Texas Transportation Commission has not designated the Ports-to-Plains Corridor in Texas by June 30, 2001.".

SEC. 1107. For an additional amount to enable the Secretary of Transportation to make a grant for the Newark-Elizabeth rail link project, New Jersey, $3,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended.

SEC. 1108. Section 5309(m)(3)(C) of title 49 United States Code, shall not apply to the funds made available in the Department of Transportation and Related Agencies Appropriations Act, 2001: *Provided*, That notwithstanding any other provision of law, the 14th Street Bridge, Virginia; Chouteau Bridge, Jackson County, Missouri; Clement C. Clay Bridge replacement, Morgan/Madison counties, Alabama; Fairfield-Benton-Kennebec River Bridge, Maine; Florida Memorial Bridge, Florida; Historic Woodrow Wilson Bridge, Mississippi; Missisquoi Bay Bridge, Vermont; Oaklawn Bridge, South Pasadena, California; Pearl Harbor Memorial Bridge replacement, Connecticut; Powell County Bridge, Montana; Santa Clara Bridge, Oxnard, California; Star City Bridge, West Virginia; US 231 Bridge over Tennessee River, Alabama; US 54/US 69 Bridge, Kansas; Waimalu Bridge replacement on I–1, Hawaii; Washington Bridge, Rhode Island are eligible in fiscal year 2001 under section 144(g)(2) of title 23, United States Code: *Provided further*, That section 378 of Public Law 106–346 is amended by inserting after "US 101" the following: "and Interstate 5 Trade Corridor".

SEC. 1109. Notwithstanding any other provision of law, in addition to funds otherwise appropriated in this or any other Act for fiscal year 2001, $4,000,000 is hereby appropriated from the Highway Trust Fund for Commercial Remote Sensing Products and Spatial Information Technologies under section 5113 of Public Law 105–178, as amended: *Provided*, That such funds are used to study the creation of a new highway right-of-way south of I–10 along the Mississippi Gulf Coast by relocating the existing railroad right-of-way out of downtown areas.

SEC. 1110. Amtrak is authorized to obtain services from the Administrator of General Services, and the Administrator is authorized to provide services to Amtrak, under sections 201(b) and 211(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b) and 491(b)) for fiscal year 2001 and each fiscal year thereafter until the fiscal year that Amtrak operates without Federal operating grant funds appropriated for its benefit, as required by sections 24101(d) and 24104(a) of title 49, United States Code.

SEC. 1111. Of the funds made available in the "Alteration of bridges" account of the Department of Transportation and Related Agencies Appropriations Act, 2001 for the Fox River Bridge, $575,000 shall be transferred by the Secretary of Transportation to the City of Oshkosh for removal of the bridge located at mile point 56.9 of the Fox River in Oshkosh, Wisconsin. The United States shall assume no responsibility for project management relating to removal of the bridge.

SEC. 1112. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) M/V WELLS GRAY (State of Alaska registration number AK 9452 N; former Canadian registration number 154661); and

(2) ANNANDALE (United States official number 519434).

SEC. 1113. CONVEYANCE OF COAST GUARD PROPERTY IN MIDDLETOWN, CALIFORNIA. (a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of General Services (in this section referred to as the "Administrator") may promptly convey to Lake County, California (in this section referred to as the "County"), without consideration, all right, title, and interest of the United States (subject to subsection (c)) in and to the property described in subsection (b).

(2) IDENTIFICATION OF PROPERTY.—The Administrator, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section.

(b) PROPERTY DESCRIBED.—

(1) IN GENERAL.—The property referred to in subsection (a) is such portion of the Coast Guard LORAN Station Middletown as has been reported to the General Services Administration to be excess property, consisting of approximately 733.43 acres, and is comprised of all or part of tracts A–101, A–102, A–104, A–105, A–106, A–107, A–108, and A–111.

(2) SURVEY.—The exact acreage and legal description of the property conveyed under subsection (a), and any easements or rights-of-way reserved by the United States under subsection (c)(1), shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the County.

(c) CONDITIONS.—

(1) IN GENERAL.—In making the conveyance under subsection (a), the Administrator shall—

(A) reserve for the United States such existing rights-of-way for access and such easements as are necessary for continued operation of the LORAN station;

(B) preserve other existing easements for public roads and highways, public utilities, irrigation ditches, railroads, and pipelines; and

(C) impose such other restrictions on use of the property conveyed as are necessary to protect the safety, security, and continued operation of the LORAN station.

(2) FIREBREAKS AND FENCE.—(A) The Administrator may not convey any property under this section unless the County and the Commandant of the Coast Guard enter into an agreement with the Administrator under which the County is required, in accordance with design specifications and maintenance standards established by the Commandant—

(i) to establish and construct within 6 months after the date of the conveyance, and thereafter to maintain, firebreaks on the property to be conveyed; and

(ii) construct within 6 months after the date of conveyance, and thereafter maintain, a fence approved by the Commandant along the property line between the property conveyed and adjoining Coast Guard property.

(B) The agreement shall require that—

(i) the County shall pay all costs of establishment, construction, and maintenance of firebreaks under subparagraph (A)(i); and

(ii) the Commandant shall provide all materials needed to construct a fence under subparagraph (A)(ii), and the County shall pay all other costs of construction and maintenance of the fence.

(3) COVENANTS APPURTENANT.—The Administrator shall take actions necessary to render the requirement to establish, construct, and maintain firebreaks and a fence under paragraph (2) and other requirements and conditions under paragraph (1), under the deed conveying the property to the County, covenants that run with the land for the benefit of land retained by the United States.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Administrator makes the conveyance authorized by subsection (a), the real property conveyed pursuant to this section, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(1) the County sells, conveys, assigns, exchanges, or encumbers the property conveyed or any part thereof;

(2) the County fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (c);

(3) the County conducts any commercial activities at the property conveyed, or any part thereof, without approval of the Secretary; or

(4) at least 30 days before the reversion, the Administrator provides written notice to the owner that the property or any part thereof is needed for national security purposes.

SEC. 1114. CONVEYANCE OF COAST GUARD PROPERTY TO TOWN OF NANTUCKET, MASSACHUSETTS. (a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other law, the Administrator of the General Services Administration (Administrator) or the Commandant of the Coast Guard (Commandant), as appropriate, shall convey to the Town of Nantucket, Massachusetts (Town), without monetary consideration, all right, title, and interest of the United States of America (United States) in and to a certain parcel of land located in Nantucket, Massachusetts, and part of the United States Coast Guard LORAN Station Nantucket, together with any improvements thereon in their then current condition.

(2) IDENTIFICATION OF PROPERTY.—The Administrator or the Commandant, as appropriate, shall identify, describe, and determine the property to be conveyed under this section. The Town shall bear all monetary costs associated with any survey required to describe the property to be conveyed under this section and any easements reserved by the United States under subsection (b)(1).

(b) TERMS AND CONDITIONS OF CONVEYANCE.—

(1) The conveyance of property under this section shall be made subject to any terms and conditions the Administrator or the Commandant, as appropriate, considers necessary, including the reservation of easements and other rights on behalf of the United States, to ensure that—

(A) there is reserved to the United States the right to remove, relocate, or replace any aid to navigation located upon, or install or construct any aid to navigation upon, property conveyed under this section as may be necessary for navigational purposes;

(B) the United States shall have the right to enter property conveyed under this section at any time, without notice, for purposes of operating, maintaining, and inspecting any aid to navigation and for the purposes of exercising any of the rights set forth in paragraph (1)(A) of this subsection; and

(C) the Town shall not interfere or allow interference, in any manner, with any aid to navigation, whether located upon the property conveyed under this section or upon any portion of LORAN Station Nantucket retained by the United States, nor hinder activities required for the inspection, operation, and maintenance of any such aid to navigation without the Commandant's express written permission.

(2) The Town shall not convey, assign, exchange, or in any way encumber the property conveyed under this section, unless approved by the Administrator.

(3) The Town shall not conduct any commercial activities at or upon the property conveyed under this section, unless approved by the Administrator.

(4) The Town shall not be required to maintain any active aid to navigation associated with the property conveyed under this section except for private aids to navigation permitted under 14 U.S.C. 83.

(5) The United States shall not convey any property under this section, nor grant any real property license under subsection (d), until the Town enters into an agreement with the United States to relocate the Coast Guard receiving antenna and associated equipment, as identified by the Commandant, at the Town's sole cost and expense, and subject to the Commandant's design specifications, project schedule, and final project approval.

(6) The United States shall not convey any property under this section, nor grant any real property license under subsection (d), until the Town enters into an agreement with the United States that provides that the Town will immediately cease construction or operation of the waste water treatment facility upon notification by the Commandant that the Town's construction or operation of the facility interferes with any Coast Guard aid to navigation. The agreement shall provide that construction or operation shall not be resumed until the conditions causing the interference are corrected, and the Commandant authorizes the construction or operation to resume.

(7) All conditions placed with the deed of title shall be construed as covenants running with the land.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to this section, the conveyance of property

under this section shall include a condition that the property conveyed, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(1) the Town conveys, assigns, exchanges, or in any manner encumbers the property conveyed for consideration, unless otherwise approved by the Administrator;

(2) the Town conducts any commercial activities at or upon the property conveyed, unless otherwise approved by the Administrator;

(3) the Town interferes or allows interference, in any manner, with any aid to navigation, whether located upon the property conveyed under this section or upon any portion of LORAN Station Nantucket retained by the United States, nor hinder activities required for the inspection, operation, and maintenance of any such aid to navigation without the Commandant's express written permission; or

(4) at least 30 days before the reversion, the Administrator provides written notice to the grantee that property conveyed under this section, or any portion thereof, is needed for national security purposes.

(d) REAL PROPERTY LICENSE.—Prior to the conveyance of any property under this section, the Commandant may grant a real property license to the Town for the purpose of allowing the Town to enter upon LORAN Station Nantucket and commence construction of a waste water treatment facility and for other site preparation activities.

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

(1) AID TO NAVIGATION.—The term "aid to navigation" means equipment used for navigation purposes, including but not limited to, a light, antenna, sound signal, electronic and radio navigation equipment and signals, cameras, sensors, or other equipment operated or maintained by the United States.

(2) TOWN.—The term "Town" includes the successors and assigns of the Town of Nantucket, Massachusetts.

SEC. 1115. CONVEYANCE OF PLUM ISLAND LIGHTHOUSE, NEWBURYPORT, MASSACHUSETTS. (a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other law, the Administrator of the General Services Administration (Administrator) or the Commandant of the Coast Guard (Commandant), as appropriate, shall convey to the City of Newburyport, Massachusetts (City), without monetary consideration, all right, title, and interest of the United States of America (United States) in and to two certain parcels of land upon which the Plum Island Boat House and the Plum Island Lighthouse (also known as the Newburyport Harbor Light), are situated, respectively, located in Essex County, Massachusetts, together with any improvements thereon in their then current condition.

(2) IDENTIFICATION OF PROPERTY.—The Administrator or the Commandant, as appropriate, shall identify, describe, and determine the property to be conveyed under this section, including the right to retain all right, title, and interest of the United States to any portion of either parcel described in paragraph (a)(1) of this section. The Administrator or Commandant, as appropriate, may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with and located at

the property conveyed under this section at the time of conveyance. Artifacts associated with, but not located at, the property conveyed under this section at the time of conveyance, shall remain the personal property of the United States under the administrative control of the Commandant. No submerged lands shall be conveyed under this section.

(b) TERMS AND CONDITIONS OF CONVEYANCE.—

(1) The conveyance of property under this section shall be made subject to any terms and conditions the Administrator or the Commandant, as appropriate, considers necessary, including but not limited to, the reservation of easements and other rights on behalf of the United States, to ensure that—

(A) the aids to navigation located at property conveyed under this section shall remain the personal property of the United States and continue to be operated and maintained by the United States for as long as needed for navigational purposes;

(B) there is reserved to the United States the right to remove, relocate, or replace any aid to navigation located upon, or install or construct any aid to navigation upon, property conveyed under this section as may be necessary for navigational purposes;

(C) the United States shall have the right to enter property conveyed under this section at any time, without notice, for purposes of operating, maintaining, and inspecting any aid to navigation, for the purposes of exercising any of the rights set forth in paragraph (1)(B) of this subsection, and for the purposes of ingress and egress to any land retained by the United States; and

(D) the City shall not, without the Commandant's express written permission, interfere or allow interference, in any manner, with any aid to navigation, nor hinder activities required

(i) for the inspection, operation, and maintenance of any aid to navigation; or

(ii) for the exercise of any of the rights set forth in paragraph (1)(B) of this subsection.

(2) The City shall, at its own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner.

(3) The City shall ensure that the property conveyed is available and accessible to the public, on a reasonable basis for educational, park, recreational, cultural, historic preservation or similar purposes.

(4) The City shall not be required to maintain any active aid to navigation associated with the property conveyed under this section except for private aids to navigation permitted under 14 U.S.C. 83.

(5) All conditions placed with the deed of title for property conveyed under this section shall be construed as covenants running with the land.

(6) The Administrator or the Commandant, as appropriate, may require such additional terms and conditions with respect to the conveyance of property under this section, as the Administrator or the Commandant considers appropriate to protect the interests of the United States.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to this section, any property conveyed under this section, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(1) the property conveyed under this section, or any part thereof, ceases to be maintained in a manner that ensures its present or future use as a site for an aid to navigation as determined by the Commandant;

(2) the property conveyed under this section, or any part thereof, ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation or similar purposes; or

(3) at least 30 days before the reversion, the Administrator provides written notice to the grantee that property conveyed under this section, or any portion thereof, is needed for national security purposes.

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

(1) AID TO NAVIGATION.—The term "aid to navigation" means equipment used for navigation purposes, including but not limited to, a light, antenna, sound signal, electronic and radio navigation equipment and signals, cameras, sensors, or other equipment operated or maintained by the United States.

(2) CITY.—The term "City" includes the successors and assigns of the City of Newburyport, Massachusetts.

SEC. 1116. TRANSFER OF COAST GUARD STATION SCITUATE TO THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. (a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Commandant, United States Coast Guard, may transfer without consideration administrative jurisdiction, custody, and control over the Federal property known as Coast Guard Station Scituate to the National Oceanic and Atmospheric Administration (hereinafter referred to as "NOAA").

(2) IDENTIFICATION OF PROPERTY.—The Administrator, in consultation with the Commandant, may identify, describe, and determine the property to be transferred under this section.

(b) TERMS OF TRANSFER.—

(1) The transfer of the property shall be made subject to any conditions and reservations the Commandant considers necessary to ensure that—

(A) the transfer of the property to NOAA is contingent upon the relocation of Coast Guard Station Scituate to a suitable site;

(B) there is reserved to the Coast Guard the right to remove, relocate, or replace any aid to navigation located upon, or install any aid to navigation upon, the property transferred under this section as may be necessary for navigational purposes; and

(C) the Coast Guard shall have the right to enter the property transferred under this section at any time, without notice, for purposes of operating, maintaining, and inspecting any aid to navigation.

(2) The transfer of the property shall be made subject to the review and acceptance of the property by NOAA.

(c) RELOCATION OF STATION SCITUATE.—The Coast Guard may—

(1) lease land, including unimproved or vacant land, for a term not to exceed 20 years, for the purpose of relocating Coast Guard Station Scituate; and

(2) improve the land leased under this subsection.

SEC. 1117. EXTENSION OF INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL. (a) Section 415(b)(2) of the Coast Guard Authorization Act of 1998 is amended by striking "2002" and inserting "2004".

(b) The Secretary shall conduct a study of the effectiveness of the United States 1997 Enforcement Policy for Cargo Residues on the Great Lakes ("Policy") by September 30, 2002.

(c) The Secretary is authorized to promulgate regulations to implement and enforce a program to regulate incidental discharges from vessels of residues of non-hazardous and non-toxic dry bulk cargo into the waters of the Great Lakes, which takes into account the finding in the study required under subsection (b). This program shall be consistent with the Policy.

SEC. 1118. GREAT LAKES PILOTAGE ADVISORY COMMITTEE. Section 9307 of title 46, United States Code, is amended—

(1) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) The President of each of the 3 Great Lakes pilotage districts, or the President's representative;";

(2) by amending subparagraph (E) of subsection (b)(2) to read as follows:

"(E) a member with a background in finance or accounting, who—

"(i) must have been recommended to the Secretary by a unanimous vote of the other members of the Committee, and

"(ii) may be appointed without regard to requirement in paragraph (1) that each member have 5 years of practical experience in maritime operations.";

(3) in subsection (C)(2) by striking the second sentence;

(4) by adding at the end of subsection (d) the following new paragraph:

"(3) Any recommendations to the Secretary under subsection (a)(2) must have been approved by at least all but one of the members then serving on the committee."; and

(5) in subsection (f)(1) by striking "September 30, 2003" and inserting "September 30, 2005".

SEC. 1119. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE. (a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following vessel escort operations and vessel towing assistance within the navigable waters of the United States:

(1) Operations or assistance that commences or terminates at a port or place in the United States.

(2) Operations or assistance required by United States law or regulation.

(3) Operations provided in whole or in part for the purpose of escorting or assisting a vessel within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to such facilities, other than

facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) DEFINITIONS.—Unless otherwise defined by a provision of law or regulation requiring that towing assistance or escort be rendered to vessels transiting United States waters or navigation facilities, for purposes of this section—

(1) the term "towing assistance" means operations by an assisting vessel in direct contact with an assisted vessel (including hull-to-hull, by towline, including if only pre-tethered, or made fast to that vessel by one or more lines) for purposes of exerting force on the assisted vessel to control or to assist in controlling the movement of the assisted vessel; and

(2) the term "escort operations" means accompanying a vessel for the purpose of providing towing or towing assistance to the vessel.

SEC. 1120. Notwithstanding any other provision of law, the Commandant of the United States Coast Guard is hereby authorized to utilize $100,000 of the amounts made available for fiscal year 2001 for environmental compliance and restoration of Coast Guard facilities to reimburse the owner of the former Coast Guard lighthouse facility at Cape May, New Jersey, for costs incurred for clean-up of lead contaminated soil at that facility.

SEC. 1121. Notwithstanding any other provision of law, $2,400,000, to be derived from the Highway Trust Fund, shall be available for planning, development and construction of rural farm-to-market roads in Tulare County, California: *Provided*, That the non-Federal share of such improvements shall be 20 percent.

SEC. 1122. Notwithstanding any other provision of law, and subject to the availability of funds appropriated specifically for the project, the Coast Guard is authorized to transfer funds in an amount not to exceed $200,000 and project management authority to the Traverse City Area Public School District for the purposes of demolition and removal of the structure commonly known as "Building 402" at former Coast Guard property located in Traverse City, Michigan, and associated site work. No such funds shall be transferred until the Coast Guard receives a detailed, fixed price estimate from the School District describing the nature and cost of the work to be performed, and the Coast Guard shall transfer only that amount of funds it and the School District consider necessary to complete the project.

SEC. 1123. Notwithstanding any other provision of law, for necessary expenses for Alabama A&M University buses and bus facilities, $500,000, to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended.

SEC. 1124. Notwithstanding any other provision of law, prior to the fiscal year 2002 apportionment of "Fixed Guideway Modernization" funds authorized under section 5309(a)(1)(E) of title 49, United States Code, $7,047,502 of funds made available in fiscal year 2002 by section 5338(b) of title 49, United States Code, for the "Fixed Guideway Modernization" program shall be distributed by the Federal Transit Administration to an urbanized area over 200,000 that did not receive amounts of fixed guideway modernization formula grants to which such area was lawfully entitled for fiscal years 1999–2001 in view of eligibility determinations made under chapter 53 of title 49, United States Code, during the 6 months prior to the effective date of this Act: *Provided*,

That such sums shall not reduce a grantee's fiscal year 2002 apportionment level of "Fixed Guideway Modernization" funds: *Provided further*, That such sum remain available until expended.

SEC. 1125. Notwithstanding any other provision of law, Airport Improvement Program Formula Changes provided in Public Law 106–181 and defined in section 104 of that Act shall be applied regardless of funding levels made available under section 48103 of title 49, United States Code.

SEC. 1126. Item number 473 contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 274), relating to Minnesota, is amended by striking "between I–35W and 24th Avenue to four lanes in Richfield" and inserting "reconstruction project from Penn Avenue to 24th Avenue, including the Penn Avenue Bridge over I–494".

SEC. 1127. The Secretary of Transportation shall not issue final regulations under section 20153 of title 49, United States Code, before July 1, 2001.

SEC. 1128. Notwithstanding any other provision of law, in addition to amounts made available in this Act or any other Act, the following sums shall be made available from the Highway Trust Fund (other than the Mass Transit Account):

$1,700,000 for transportation and community preservation projects along the Main Street Corridor in Houston, Texas;

$5,000,000 for rehabilitation, repair, and restoration of the historic Stillwater Lift Bridge between Stillwater, Minnesota and Houlton, Wisconsin;

$1,000,000 for improvements to McClung Road, Boston Street, Larson Street and Whirlpool Drive in the City of LaPorte, Indiana; and

$1,000,000 for design, environmental mitigation, engineering, and construction of, and improvements to, the US 36/ Wadsworth interchange (Broomfield interchange) in Broomfield County, Colorado:

Provided, That the amounts appropriated in this section shall remain available until expended and shall not be subject to, or computed against, any obligation limitation or contract authority set forth in this or any other Act.

CHAPTER 12

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

For an additional amount to be deposited in, and to be used for the purposes of, the Federal Buildings Fund of the General Services Administration, $2,070,000: *Provided*, That this amount shall be available for the purpose of renovating and redeveloping portions of the historic Federal building located at 30 North Seventh Street in Terre Haute, Indiana, to accommodate the needs of Federal tenants: *Provided further*, That use of these funds is subject to authorization including the preparation and approval of a prospectus as required by the Public Buildings Act of 1959, as amended.

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

OPERATIONS, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For an additional amount of $7,000,000, to remain available until expended, for necessary expenses associated with procurement of two aircraft and related equipment expenses associated with aviation standardization and training at the Customs National Aviation Center in Oklahoma City, Oklahoma: *Provided*, That none of the funds provided shall be available for obligation until an expenditure plan is submitted for approval to the Committees on Appropriations.

CHAPTER 13

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MINOR PROJECTS

For an additional amount for "Construction, minor projects", $8,840,000, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

EMPOWERMENT ZONES/ENTERPRISE COMMUNITIES

For an additional amount for "Empowerment zones and enterprise communities", $110,000,000, to remain available until expended: *Provided*, That $185,000,000 shall be available for urban empowerment zones, as authorized by the Taxpayer Relief Act of 1997, including $12,333,333 for each empowerment zone.

COMMUNITY DEVELOPMENT FUND

For an additional amount for "Community development fund", $66,128,000 to remain available until September 30, 2003.

The referenced statement of the managers in the seventh undesignated paragraph under this heading in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (Public Law 106–377) is deemed to be amended by striking "West Dallas neighborhoods" in reference to improvement efforts by the Pleasant Wood/Pleasant Grove Community Development Corporation, and inserting "the Pleasant Grove area" in lieu thereof.

The unobligated amount appropriated in the third paragraph under the heading "Community development block grants" in chapter 8 of title II of the Emergency Supplemental Act, 2000 (Public Law 106–246) for a grant to the City of Hamlet, North Carolina, for demolition and removal of buildings and equipment destroyed by fire shall remain available until September 30, 2002, for a grant for such purpose to the County of Richmond, North Carolina.

The seventh paragraph under this heading in title II of Public Law 106–377 is amended by striking "$292,000,000" and inserting in lieu thereof "$358,128,000": *Provided*, That such funds shall be available for grants for the Economic Development Initiative (EDI) to finance a variety of targeted economic investments in accordance with the terms and conditions specified in the statement of managers accompanying this conference report.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

FUND PROGRAM ACCOUNT

Under this heading in Public Law 106–377, strike "$8,750,000 may be used for administrative expenses," and insert "$9,750,000 may be used for administrative expenses, including administration of the New Markets Tax Credit and Individual Development Accounts,".

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for "Science and technology", $1,000,000 for continuation of the South Bronx Air Pollution Study being conducted by New York University.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

The statement of the managers under this heading in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (Public Law 106–377) is deemed to be amended by inserting the word "Valley" after the words "San Bernardino" in reference to a project identified as number 104 in such statement of the managers.

STATE AND TRIBAL ASSISTANCE GRANTS

Grants appropriated under this heading in Public Law 106–74 and Public Law 106–377 for drinking water infrastructure needs in the New York City watershed shall be awarded under section 1443(d) of the Safe Drinking Water Act, as amended.

The referenced statement of the managers under this heading in Public Law 106–377 is deemed to be amended by striking all after the words "City of Liberty" in reference to item number 78, and inserting the words "Town of Versailles, Indiana for wastewater infrastructure improvements".

Under this heading in title III of Public Law 106–377, strike "$335,740,000" and insert "$356,370,000": *Provided*, That such funds shall be for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the statement of managers accompanying Public Law 106–377 and this conference report.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency management planning and assistance", $100,000,000, to remain available through September 30, 2001, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), as amended.

CHAPTER 14

GENERAL PROVISIONS—THIS DIVISION

SEC. 1401. H. Con. Res. 234 of the 106th Congress, as adopted by the House of Representatives on November 18, 1999, shall be considered to have been adopted by the Senate.

SEC. 1402. Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) Sections 1105(a), 1106(a) and (b), and 1109(a) of title 31, United States Code, and any other law relating to the budget of the United States Government.

(2) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.).

(3) Sections 202(e)(1) and (3) of the Congressional Budget Act of 1974 (2 U.S.C. 602(e)(1) and (3)).

(4) Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 685(e)).

SEC. 1403. (a) GOVERNMENT-WIDE RESCISSIONS.—There is hereby rescinded an amount equal to 0.22 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2001 in this or any other Act for each department, agency, instrumentality, or entity of the Federal Government, except for those programs, projects, and activities which are specifically exempted elsewhere in this provision: *Provided*, That this exact reduction percentage shall be applied on a pro rata basis only to each program, project, and activity subject to the rescission.

(b) RESTRICTIONS.—This reduction shall not be applied to the amounts appropriated in title I of Public Law 106–259: *Provided*, That this reduction shall not be applied to the amounts appropriated in division B of Public Law 106–246: *Provided further*, That this reduction shall not be applied to the amounts appropriated under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, as contained in this Act, or in prior Acts.

(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2002 a report specifying the reductions made to each account pursuant to this section.

DIVISION B

TITLE I

SEC. 101. ELIGIBILITY OF PRIVATE ORGANIZATIONS UNDER CHILD AND ADULT CARE FOOD PROGRAM. (a) Section 17(a)(2)(B) of the

Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)(B)) is amended by striking "children for which the" and inserting "children, if—

"(i) during the period beginning on the date of enactment of this clause and ending on September 30, 2001, at least 25 percent of the children served by the organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; or

"(ii) the".

(b) EMERGENCY REQUIREMENT.—

(1) IN GENERAL.—The entire amount necessary to carry out this section shall be available only to the extent that an official budget request for the entire 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, as amended, is transmitted by the President to the Congress.

(2) DESIGNATION.—The entire amount necessary to carry out this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 102. SUMMER FOOD PILOT PROJECTS. (a) Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following:

"(f) SUMMER FOOD PILOT PROJECTS.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State in which (based on data available in July 2000)—

"(A) the percentage obtained by dividing—

"(i) the sum of—

"(I) the average daily number of children attending the summer food service program in the State in July 1999; and

"(II) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in July 1999; by

"(ii) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in March 1999; is less than 50 percent of

"(B) the percentage obtained by dividing—

"(i) the sum of—

"(I) the average daily number of children attending the summer food service program in all States in July 1999; and

"(II) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in July 1999; by

"(ii) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in March 1999.

"(2) PILOT PROJECTS.—During the period of fiscal years 2001 through 2003, the Secretary shall carry out a summer food pilot project in each eligible State to increase the number

of children participating in the summer food service program in the State.

"(3) SUPPORT LEVELS FOR SERVICE INSTITUTIONS.—

"(A) FOOD SERVICE.—Under the pilot project, a service institution (other than a service institution described in section 13(a)(7)) in an eligible State shall receive the maximum amounts for food service under section 13(b)(1) without regard to the requirement under section 13(b)(1)(A) that payments shall equal the full cost of food service operations.

"(B) ADMINISTRATIVE COSTS.—Under the pilot project, a service institution (other than a service institution described in section 13(a)(7)) in an eligible State shall receive the maximum amounts for administrative costs determined by the Secretary under section 13(b)(4) without regard to the requirement under section 13(b)(3) that payments to service institutions shall equal the full amount of State-approved administrative costs incurred.

"(C) COMPLIANCE.—A service institution that receives assistance under this subsection shall comply with all provisions of section 13 other than subsections (b)(1)(A) and (b)(3) of section 13.

"(4) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources for maintenance of a summer food service program shall not be diminished as a result of assistance from the Secretary received under this subsection.

"(5) EVALUATION OF PILOT PROJECTS.—

"(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot project.

"(B) CONTENT.—An evaluation under this paragraph shall describe—

"(i) any effect on participation by children and service institutions in the summer food service program in the eligible State in which the pilot project is carried out;

"(ii) any effect of the pilot project on the quality of the meals and supplements served in the eligible State in which the pilot project is carried out; and

"(iii) any effect of the pilot project on program integrity.

"(6) REPORTS.—

"(A) INTERIM REPORT.—Not later than December 1, 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report that describes the status of, and any progress made by, each pilot project being carried out under this subsection as of the date of submission of the report.

"(B) FINAL REPORT.—Not later than April 30, 2004, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a final report that includes—

"(i) the evaluations completed by the Secretary under paragraph (5); and

"(ii) any recommendations of the Secretary concerning the pilot projects.".

(b) EMERGENCY REQUIREMENT.—

(1) IN GENERAL.—The entire amount necessary to carry out this section shall be available only to the extent that an official budget request for the entire 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, as amended, is transmitted by the President to the Congress.

(2) DESIGNATION.—The entire amount necessary to carry out this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 103. (a) IN GENERAL.—The Secretary of the Interior shall conduct a feasibility study for a Sacramento River, California, diversion project that is consistent with the Water Forum Agreement among the members of the Sacramento, California, Water Forum dated April 24, 2000, and that considers—

(1) consolidation of several of the Natomas Central Mutual Water Company's diversions;

(2) upgrading fish screens at the consolidated diversion;

(3) the diversion of 35,000 acre feet of water by the Placer County Water Agency;

(4) the diversion of 29,000 acre feet of water for delivery to the Northridge Water District;

(5) the potential to accommodate other diversions of water from the Sacramento River, subject to additional negotiations and agreement among Water Forum signatories and potentially affected parties upstream on the Sacramento River; and

(6) an inter-tie between the diversions referred to in paragraphs (3), (4), and (5) with the Northridge Water District's pipeline that delivers water from the American River.

(b) REQUIRED COMPONENTS.—The feasibility study shall include—

(1) the development of a range of reasonable options;

(2) an environmental evaluation; and

(3) consultation with Federal and State resource management agencies regarding potential impacts and mitigation measures.

(c) WATER SUPPLY IMPACT ALTERNATIVES.—The study authorized by this section shall include a range of alternatives, all of which would investigate options that could reduce to insignificance any water supply impact on water users in the Sacramento River watershed, including Central Valley Project contractors, from any delivery of water out of the Sacramento River as referenced in subsection (a). In evaluating the alternatives, the study shall consider water supply alternatives that would increase water supply for, or in, the Sacramento River watershed. The study should be coordinated with the CALFED program and take advantage of information already developed within that program to investigate water supply increase alternatives. Where the alternatives evaluated are in addition to or different from the existing CALFED alternatives, such information should be clearly identified.

(d) HABITAT MANAGEMENT PLANNING GRANTS.—The Secretary of the Interior, subject to the availability of appropriations, is authorized and directed to provide grants to support local habitat management planning efforts undertaken as part of the consultation

described in subsection (b)(3) in the form of matching funds up to $5,000,000.

(e) REPORT.—The Secretary of the Interior shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 24 months from the date of enactment of this Act on the results of the study identified in subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out this section $10,000,000, which may remain available until expended, of which—

(1) $5,000,000 shall be for the feasibility study under subsection (a); and

(2) $5,000,000 shall be for the habitat management planning grants under subsection (d).

(g) LIMITATION ON CONSTRUCTION.—This section does not and shall not be interpreted to authorize construction of any facilities.

SEC. 104. TEN- AND FIFTEEN-MILE BAYOUS, ARKANSAS. The project for flood control, Saint Francis River Basin, Missouri and Arkansas, authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 172), is modified to expand the boundaries of the project to include Ten- and Fifteen-Mile Bayous near West Memphis, Arkansas. Notwithstanding section 103(f) of the Water Resources Development Act of 1986 (100 Stat. 4086), the flood control work at Ten- and Fifteen-Mile Bayous shall not be considered separable elements of the project.

SEC. 105. In accordance with section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613), the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to enter into an agreement to permit the City of Alton, Illinois to construct the authorized recreational facilities and to reimburse the City of Alton, Illinois for the Federal share of these cost-shared recreation facilities as usable segments are completed.

SEC. 106. TRUCKEE WATERSHED RECLAMATION PROJECT. (a) AUTHORIZATION.—The Secretary of the Interior, in cooperation with Washoe County, Nevada, may participate in the design, planning, and construction of the Truckee watershed reclamation project, consisting of the North Valley reuse project and the Spanish Springs Valley septic conversion project, to reclaim and reuse wastewater (including degraded groundwater) within and without the service area of Washoe County, Nevada.

(b) COST SHARE.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation or maintenance of the project described in subsection (a).

(d) RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT.—

(1) DESIGN, PLANNING, AND CONSTRUCTION.—Design, planning, and construction of the project described in subsection (a) shall be in accordance with, and subject to the limitations contained in, the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.).

(2) FUNDING.—Funds made available under section 1631 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13) may be used to pay the Federal share of the cost of the project.

SEC. 107. The project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Rivers and Harbors Act of September 22, 1922 (42 Stat. 1042), is modified to authorize the Secretary of the Army to deepen and widen the Alafia Channel in accordance with the plans described in the Draft Feasibility Report, Alafia River, Tampa Harbor, Florida, dated May 2000, at a total cost of $61,592,000, with an estimated Federal cost of $39,621,000 and an estimated non-Federal cost of $21,971,000.

SEC. 108. ENVIRONMENTAL INFRASTRUCTURE. (a) TECHNICAL, PLANNING, AND DESIGN ASSISTANCE.—Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835) is amended by adding at the end the following:

"(19) MARANA, ARIZONA.—Wastewater treatment and distribution infrastructure, Marana, Arizona.

"(20) EASTERN ARKANSAS ENTERPRISE COMMUNITY, ARKANSAS.—Water-related infrastructure, Eastern Arkansas Enterprise Community, Cross, Lee, Monroe, and St. Francis Counties, Arkansas.

"(21) CHINO HILLS, CALIFORNIA.—Storm water and sewage collection infrastructure, Chino Hills, California.

"(22) CLEAR LAKE BASIN, CALIFORNIA.—Water-related infrastructure and resource protection, Clear Lake Basin, California.

"(23) DESERT HOT SPRINGS, CALIFORNIA.—Resource protection and wastewater infrastructure, Desert Hot Springs, California.

"(24) EASTERN MUNICIPAL WATER DISTRICT, CALIFORNIA.—Regional water-related infrastructure, Eastern Municipal Water District, California.

"(25) HUNTINGTON BEACH, CALIFORNIA.—Water supply and wastewater infrastructure, Huntington Beach, California.

"(26) INGLEWOOD, CALIFORNIA.—Water infrastructure, Inglewood, California.

"(27) LOS OSOS COMMUNITY SERVICE DISTRICT, CALIFORNIA.—Wastewater infrastructure, Los Osos Community Service District, California.

"(28) NORWALK, CALIFORNIA.—Water-related infrastructure, Norwalk, California.

"(29) KEY BISCAYNE, FLORIDA.—Sanitary sewer infrastructure, Key Biscayne, Florida.

"(30) SOUTH TAMPA, FLORIDA.—Water supply and aquifer storage and recovery infrastructure, South Tampa, Florida.

"(31) FORT WAYNE, INDIANA.—Combined sewer overflow infrastructure and wetlands protection, Fort Wayne, Indiana.

"(32) INDIANAPOLIS, INDIANA.—Combined sewer overflow infrastructure, Indianapolis, Indiana.

"(33) ST. CHARLES, ST. BERNARD, AND PLAQUEMINES PARISHES, LOUISIANA.—Water and wastewater infrastructure, St. Charles, St. Bernard, and Plaquemines Parishes, Louisiana.

"(34) ST. JOHN THE BAPTIST AND ST. JAMES PARISHES, LOUISIANA.—Water and sewer improvements, St. John the Baptist and St. James Parishes, Louisiana.

"(35) UNION COUNTY, NORTH CAROLINA.—Water infrastructure, Union County, North Carolina.

"(36) HOOD RIVER, OREGON.—Water transmission infrastructure, Hood River, Oregon.

"(37) MEDFORD, OREGON.—Sewer collection infrastructure, Medford, Oregon.

"(38) PORTLAND, OREGON.—Water infrastructure and resource protection, Portland, Oregon.

"(39) COUDERSPORT, PENNSYLVANIA.—Sewer system extensions and improvements, Coudersport, Pennsylvania.

"(40) PARK CITY, UTAH.—Water supply infrastructure, Park City, Utah.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR TECHNICAL, PLANNING, AND DESIGN ASSISTANCE.—Section 219(d) of the Water Resources Development Act of 1992 (106 Stat. 4836) is amended by striking "$5,000,000" and inserting "$30,000,000".

(c) MODIFICATION OF AUTHORIZATIONS FOR ENVIRONMENTAL PROJECTS.—Section 219 of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) is amended—

(1) in subsection (e)(6) by striking "$20,000,000" and inserting "$30,000,000";

(2) in subsection (f)(4) by striking "$15,000,000" and inserting "$35,000,000";

(3) in subsection (f)(21) by striking "$10,000,000" and inserting "$20,000,000";

(4) in subsection (f)(25) by striking "$5,000,000" and inserting "$15,000,000";

(5) in subsection (f)(30) by striking "$10,000,000" and inserting "$20,000,000";

(6) in subsection (f)(43) by striking "$15,000,000" and inserting "$35,000,000".

(d) ADDITIONAL ASSISTANCE FOR CRITICAL RESOURCE PROJECTS.—Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335) is amended by adding at the end the following:

"(45) WASHINGTON, D.C., AND MARYLAND.—$15,000,000 for the project described in subsection (c)(1), modified to include measures to eliminate or control combined sewer overflows in the Anacostia River watershed.

"(46) DUCK RIVER, CULLMAN, ALABAMA.—$5,000,000 for water supply infrastructure, Duck River, Cullman, Alabama.

"(47) UNION COUNTY, ARKANSAS.—$52,000,000 for water supply infrastructure, including facilities for withdrawal, treatment, and distribution, Union County, Arkansas.

"(48) CAMBRIA, CALIFORNIA.—$10,300,000 for desalination infrastructure, Cambria, California.

"(49) LOS ANGELES HARBOR/TERMINAL ISLAND, CALIFORNIA.—$6,500,000 for wastewater recycling infrastructure, Los Angeles Harbor/Terminal Island, California.

"(50) NORTH VALLEY REGION, LANCASTER, CALIFORNIA.—$14,500,000 for water infrastructure, North Valley Region, Lancaster, California.

"(51) SAN DIEGO COUNTY, CALIFORNIA.—$10,000,000 for water-related infrastructure, San Diego County, California.

"(52) SOUTH PERRIS, CALIFORNIA.—$25,000,000 for water supply desalination infrastructure, South Perris, California.

"(53) AURORA, ILLINOIS.—$8,000,000 for wastewater infrastructure to reduce or eliminate combined sewer overflows, Aurora, Illinois.

"(54) COOK COUNTY, ILLINOIS.—$35,000,000 for water-related infrastructure and resource protection and development, Cook County, Illinois.

"(55) MADISON AND ST. CLAIR COUNTIES, ILLINOIS.—$10,000,000 for water and wastewater assistance, Madison and St. Clair Counties, Illinois.

"(56) IBERIA PARISH, LOUISIANA.—$5,000,000 for water and wastewater infrastructure, Iberia Parish, Louisiana.

"(57) KENNER, LOUISIANA.—$5,000,000 for wastewater infrastructure, Kenner, Louisiana.

"(58) BENTON HARBOR, MICHIGAN.—$1,500,000 for water-related infrastructure, City of Benton Harbor, Michigan.

"(59) GENESEE COUNTY, MICHIGAN.—$6,700,000 for wastewater infrastructure assistance to reduce or eliminate sewer overflows, Genesee County, Michigan.

"(60) NEGAUNEE, MICHIGAN.—$10,000,000 for wastewater infrastructure assistance, City of Negaunee, Michigan.

"(61) GARRISON AND KATHIO TOWNSHIP, MINNESOTA.—$11,000,000 for a wastewater infrastructure project for the city of Garrison and Kathio Township, Minnesota.

"(62) NEWTON, NEW JERSEY.—$7,000,000 for water filtration infrastructure, Newton, New Jersey.

"(63) LIVERPOOL, NEW YORK.—$2,000,000 for water infrastructure, including a pump station, Liverpool, New York.

"(64) STANLY COUNTY, NORTH CAROLINA.—$8,900,000 for wastewater infrastructure, Stanly County, North Carolina.

"(65) YUKON, OKLAHOMA.—$5,500,000 for water-related infrastructure, including wells, booster stations, storage tanks, and transmission lines, Yukon, Oklahoma.

"(66) ALLEGHENY COUNTY, PENNSYLVANIA.—$20,000,000 for water-related environmental infrastructure, Allegheny County, Pennsylvania.

"(67) MOUNT JOY TOWNSHIP AND CONEWAGO TOWNSHIP, PENNSYLVANIA.—$8,300,000 for water and wastewater infrastructure, Mount Joy Township and Conewago Township, Pennsylvania.

"(68) PHOENIXVILLE BOROUGH, CHESTER COUNTY, PENNSYLVANIA.—$2,400,000 for water and sewer infrastructure, Phoenixville Borough, Chester County, Pennsylvania.

"(69) TITUSVILLE, PENNSYLVANIA.—$7,300,000 for storm water separation and treatment plant upgrades, Titusville, Pennsylvania.

"(70) WASHINGTON, GREENE, WESTMORELAND, AND FAYETTE COUNTIES, PENNSYLVANIA.—$8,000,000 for water and wastewater infrastructure, Washington, Greene, Westmoreland, and Fayette Counties, Pennsylvania.".

SEC. 109. FLORIDA KEYS WATER QUALITY IMPROVEMENTS. (a) IN GENERAL.—In coordination with the Florida Keys Aqueduct Authority, appropriate agencies of municipalities of Monroe County, Florida, and other appropriate public agencies of the State of Florida or Monroe County, the Secretary of the Army may provide technical and financial assistance to carry out projects for the planning, design, and construction of treatment works to improve water quality in the Florida Keys National Marine Sanctuary.

(b) CRITERIA FOR PROJECTS.—Before entering into a cooperation agreement to provide assistance with respect to a project under this section, the Secretary shall ensure that—

(1) the non-Federal sponsor has completed adequate planning and design activities, as applicable;

(2) the non-Federal sponsor has completed a financial plan identifying sources of non-Federal funding for the project;

(3) the project complies with—

(A) applicable growth management ordinances of Monroe County, Florida;

(B) applicable agreements between Monroe County, Florida, and the State of Florida to manage growth in Monroe County, Florida; and

(C) applicable water quality standards; and

(4) the project is consistent with the master wastewater and storm water plans for Monroe County, Florida.

(c) CONSIDERATION.—In selecting projects under subsection (a), the Secretary shall consider whether a project will have substantial water quality benefits relative to other projects under consideration.

(d) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

(1) the Water Quality Steering Committee established under section 8(d)(2)(A) of the Florida Keys National Marine Sanctuary and Protection Act (106 Stat. 5054);

(2) the South Florida Ecosystem Restoration Task Force established by section 528(f) of the Water Resources Development Act of 1996 (110 Stat. 3771–3773);

(3) the Commission on the Everglades established by executive order of the Governor of the State of Florida; and

(4) other appropriate State and local government officials.

(e) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of the cost of a project carried out under this section shall be 35 percent.

(2) CREDIT.—

(A) IN GENERAL.—The Secretary may provide the non-Federal interest credit toward cash contributions required—

(i) before and during the construction of the project, for the costs of planning, engineering, and design, and for the construction management work that is performed by the non-Federal interest and that the Secretary determines is necessary to implement the project; and

(ii) during the construction of the project, for the construction that the non-Federal interest carries out on behalf of the Secretary and that the Secretary determines is necessary to carry out the project.

(B) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this paragraph may be carried over between authorized projects.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SEC. 110. SAN GABRIEL BASIN, CALIFORNIA. (a) SAN GABRIEL BASIN RESTORATION.—

(1) ESTABLISHMENT OF FUND.—There shall be established within the Treasury of the United States an interest bearing account to be known as the San Gabriel Basin Restoration Fund (in this section referred to as the "Restoration Fund").

(2) ADMINISTRATION OF FUND.—The Restoration Fund shall be administered by the Secretary of the Army, in cooperation with the San Gabriel Basin Water Quality Authority or its successor agency.

(3) PURPOSES OF FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), the amounts in the Restoration Fund, including interest accrued, shall be utilized by the Secretary—

(i) to design and construct water quality projects to be administered by the San Gabriel Basin Water Quality Authority and the Central Basin Water Quality Project to be administered by the Central Basin Municipal Water District; and

(ii) to operate and maintain any project constructed under this section for such period as the Secretary determines, but not to exceed 10 years, following the initial date of operation of the project.

(B) COST-SHARING LIMITATION.—

(i) IN GENERAL.—The Secretary may not obligate any funds appropriated to the Restoration Fund in a fiscal year until the Secretary has deposited in the Fund an amount provided by non-Federal interests sufficient to ensure that at least 35 percent of any funds obligated by the Secretary are from funds provided to the Secretary by the non-Federal interests.

(ii) NON-FEDERAL RESPONSIBILITY.—The San Gabriel Basin Water Quality Authority shall be responsible for providing the non-Federal amount required by clause (i). The State of California, local government agencies, and private entities may provide all or any portion of such amount.

(b) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this section, the Secretary shall comply with any applicable Federal and State laws.

(c) RELATIONSHIP TO OTHER ACTIVITIES.—Nothing in this section shall be construed to affect other Federal or State authorities that are being used or may be used to facilitate the cleanup and protection of the San Gabriel and Central groundwater basins. In carrying out the activities described in this section, the Secretary shall integrate such activities with ongoing Federal and State projects and activities. None of the funds made available for such activities pursuant to this section shall be counted against any Federal authorization ceiling established for any previously authorized Federal projects or activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Restoration Fund established under subsection (a) $85,000,000. Such funds shall remain available until expended.

(2) SET-ASIDE.—Of the amounts appropriated under paragraph (1), no more than $10,000,000 shall be available to carry out the Central Basin Water Quality Project.

(e) ADJUSTMENT.—Of the $25,000,000 made available for San Gabriel Basin Groundwater Restoration, California, under the heading "Construction, General" in title I of the Energy and Water Development Appropriations Act, 2001—

(1) $2,000,000 shall be available only for studies and other investigative activities and planning and design of projects

determined by the Secretary to offer a long-term solution to the problem of groundwater contamination caused by perchlorates at sites located in the city of Santa Clarita, California; and

(2) $23,000,000 shall be deposited in the Restoration Fund, of which $4,000,000 shall be used for remediation in the Central Basin, California.

SEC. 111. PERCHLORATE. (a) IN GENERAL.—The Secretary of the Army, in cooperation with Federal, State, and local government agencies, may participate in studies and other investigative activities and in the planning and design of projects determined by the Secretary to offer a long-term solution to the problem of groundwater contamination caused by perchlorates.

(b) INVESTIGATIONS AND PROJECTS.—

(1) BOSQUE AND LEON RIVERS.—The Secretary, in coordination with other Federal agencies and the Brazos River Authority, shall participate under subsection (a) in investigations and projects in the Bosque and Leon Rivers watersheds in Texas to assess the impact of the perchlorate associated with the former Naval "Weapons Industrial Reserve Plant" at McGregor, Texas.

(2) CADDO LAKE.—The Secretary, in coordination with other Federal agencies and the Northeast Texas Municipal Water District, shall participate under subsection (a) in investigations and projects relating to perchlorate contamination in Caddo Lake, Texas.

(3) EASTERN SANTA CLARA BASIN.—The Secretary, in coordination with other Federal, State, and local government agencies, shall participate under subsection (a) in investigations and projects related to sites that are sources of perchlorates and that are located in the city of Santa Clarita, California.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there is authorized to be appropriated to the Secretary $25,000,000, of which not to exceed $8,000,000 shall be available to carry out subsection (b)(1), not to exceed $3,000,000 shall be available to carry out subsection (b)(2), and not to exceed $7,000,000 shall be available to carry out subsection (b)(3).

SEC. 112. WET WEATHER WATER QUALITY. (a) COMBINED SEWER OVERFLOWS.—Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS, ORDERS, AND DECREES.—Each permit, order, or decree issued pursuant to this Act after the date of enactment of this subsection for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the 'CSO control policy').

"(2) WATER QUALITY AND DESIGNATED USE REVIEW GUIDANCE.—Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

"(3) REPORT.—Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the

progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.".

(b) WET WEATHER PILOT PROGRAM.—Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"SEC. 121. WET WEATHER WATERSHED PILOT PROJECTS.

"(a) IN GENERAL.—The Administrator, in coordination with the States, may provide technical assistance and grants for treatment works to carry out pilot projects relating to the following areas of wet weather discharge control:

"(1) WATERSHED MANAGEMENT OF WET WEATHER DISCHARGES.—The management of municipal combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach.

"(2) STORMWATER BEST MANAGEMENT PRACTICES.—The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies in reducing such pollutants from stormwater discharges.

"(b) ADMINISTRATION.—The Administrator, in coordination with the States, shall provide municipalities participating in a pilot project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

"(c) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $20,000,000 for fiscal year 2004. Such funds shall remain available until expended.

"(2) STORMWATER.—The Administrator shall make available not less than 20 percent of amounts appropriated for a fiscal year pursuant to this subsection to carry out the purposes of subsection (a)(2).

"(3) ADMINISTRATIVE EXPENSES.—The Administrator may retain not to exceed 4 percent of any amounts appropriated for a fiscal year pursuant to this subsection for the reasonable and necessary costs of administering this section.

"(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.".

(c) SEWER OVERFLOW CONTROL GRANTS.—Title II of the Federal Water Pollution Control Act (33 U.S.C. 1342 et seq.) is amended by adding at the end the following:

"SEC. 221. SEWER OVERFLOW CONTROL GRANTS.

"(a) IN GENERAL.—In any fiscal year in which the Administrator has available for obligation at least $1,350,000,000 for the purposes of section 601—

"(1) the Administrator may make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows; and

"(2) subject to subsection (g), the Administrator may make a direct grant to a municipality or municipal entity for the purposes described in paragraph (1).

"(b) PRIORITIZATION.—In selecting from among municipalities applying for grants under subsection (a), a State or the Administrator shall give priority to an applicant that—

"(1) is a municipality that is a financially distressed community under subsection (c);

"(2) has implemented or is complying with an implementation schedule for the nine minimum controls specified in the CSO control policy referred to in section 402(q)(1) and has begun implementing a long-term municipal combined sewer overflow control plan or a separate sanitary sewer overflow control plan;

"(3) is requesting a grant for a project that is on a State's intended use plan pursuant to section 606(c); or

"(4) is an Alaska Native Village.

"(c) FINANCIALLY DISTRESSED COMMUNITY.—

"(1) DEFINITION.—In subsection (b), the term 'financially distressed community' means a community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

"(2) CONSIDERATION OF IMPACT ON WATER AND SEWER RATES.—In determining if a community is a distressed community for the purposes of subsection (b), the State shall consider, among other factors, the extent to which the rate of growth of a community's tax base has been historically slow such that implementing a plan described in subsection (b)(2) would result in a significant increase in any water or sewer rate charged by the community's publicly owned wastewater treatment facility.

"(3) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under paragraph (1).

"(d) COST-SHARING.—The Federal share of the cost of activities carried out using amounts from a grant made under subsection (a) shall be not less than 55 percent of the cost. The non-Federal share of the cost may include, in any amount, public and private funds and in-kind services, and may include, notwithstanding section 603(h), financial assistance, including loans, from a State water pollution control revolving fund.

"(e) ADMINISTRATIVE REPORTING REQUIREMENTS.—If a project receives grant assistance under subsection (a) and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000,000 for each of fiscal years 2002 and 2003. Such sums shall remain available until expended.

"(g) ALLOCATION OF FUNDS.—

"(1) FISCAL YEAR 2002.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry

out this section for fiscal year 2002 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

"(2) FISCAL YEAR 2003.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2003 as follows:

"(A) Not to exceed $250,000,000 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

"(B) All remaining amounts for making grants to States under subsection (a)(1), in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516(b)(1).

"(h) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this section for each fiscal year—

"(1) the Administrator may retain an amount not to exceed 1 percent for the reasonable and necessary costs of administering this section; and

"(2) the Administrator, or a State, may retain an amount not to exceed 4 percent of any grant made to a municipality or municipal entity under subsection (a), for the reasonable and necessary costs of administering the grant.

"(i) REPORTS.—Not later than December 31, 2003, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.".

(d) INFORMATION ON CSOS AND SSOS.—

(1) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report summarizing—

(A) the extent of the human health and environmental impacts caused by municipal combined sewer overflows and sanitary sewer overflows, including the location of discharges causing such impacts, the volume of pollutants discharged, and the constituents discharged;

(B) the resources spent by municipalities to address these impacts; and

(C) an evaluation of the technologies used by municipalities to address these impacts.

(2) TECHNOLOGY CLEARINGHOUSE.—After transmitting a report under paragraph (1), the Administrator shall maintain a clearinghouse of cost-effective and efficient technologies for addressing human health and environmental impacts due to municipal combined sewer overflows and sanitary sewer overflows.

SEC. 113. FISH PASSAGE DEVICES AT NEW SAVANNAH BLUFF LOCK AND DAM, SOUTH CAROLINA. Section 348(l)(2) of the Water Resources Development Act of 2000 is amended—

(1) in subparagraph (A), by striking "Dam, at Federal expense of an estimated $5,300,000" and inserting "Dam and construct appropriate fish passage devices at the Dam, at Federal expense"; and

(2) in subparagraph (B), by striking "after repair and rehabilitation," and inserting "after carrying out subparagraph (A),".

SEC. 114. (a) EXTINGUISHMENT OF REVERSIONARY INTERESTS AND USE RESTRICTIONS.—With respect to the lands described in the deed described in subsection (b)—

(1) the reversionary interests and the use restrictions relating to port or industrial purposes are extinguished;

(2) the human habitation or other building structure use restriction is extinguished in each area where the elevation is above the standard project flood elevation; and

(3) the use of fill material to raise areas above the standard project flood elevation, without increasing the risk of flooding in or outside of the floodplain, is authorized, except in any area constituting wetland for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) would be required.

(b) AFFECTED DEED.—The deed referred to is the deed recorded October 17, 1967, in book 291, page 148, Deed of Records of Umatilla County, Oregon, executed by the United States.

SEC. 115. MURRIETA CREEK, CALIFORNIA. Section 101(b)(6) of the Water Resources Development Act of 2000 is repealed.

SEC. 116. PENN MINE, CALAVERAS COUNTY, CALIFORNIA. (a) IN GENERAL.—The Secretary of the Army shall reimburse East Bay Municipal Water District for the project for aquatic ecosystem restoration, Penn Mine, Calaveras County, California, carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), $4,100,000 for the Federal share of costs incurred by East Bay Municipal Utility District for work carried out by East Bay Municipal Utility District for the project. Such amounts shall be made available within 90 days of enactment of this provision.

(b) SOURCE OF FUNDING.—Reimbursement under subsection (a) shall be from amounts appropriated before the date of enactment of this Act for the project described in subsection (a).

SEC. 117. The project for flood control, Greers Ferry Lake, Arkansas, authorized by the Rivers and Harbors Act of June 28, 1938 (52 Stat. 1218), is modified to authorize the Secretary of the Army to construct intake facilities for the benefit of Lonoke and White Counties, Arkansas.

SEC. 118. The project for flood control, Chehalis River and Tributaries, Washington, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4126), is modified to authorize the Secretary of the Army to provide the non-Federal interest credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of execution of a cooperation agreement for the project if the Secretary determines that the work is integral to the project.

SEC. 119. Within the funds appropriated to the National Park Service under the heading "Operation of the National Park System" in Public Law 106–291, the Secretary of the Interior shall provide a grant of $75,000 to the City of Ocean Beach, New York, for repair of facilities at the Ocean Beach Pavilion at Fire Island National Seashore.

SEC. 120. The National Park Service is directed to work with Fort Sumter Tours, Inc., the concessionaire currently providing services at Fort Sumter National Monument in South Carolina, on an amicable solution of the current legal dispute between the two parties. The Director of the Service is directed to extend immediately the current contract through March 15, 2001, to facilitate further negotiations and for 180 days if final settlement of all disputes is agreed to by both parties.

SEC. 121. Title VIII—Land Conservation, Preservation, and Infrastructure Improvement of Public Law 106–291 is amended as follows: after the first dollar amount insert: ", to be derived from the Land and Water Conservation Fund".

SEC. 122. GAS TO LIQUIDS. Section 301(2) of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13211(2)) is amended by inserting ", including liquid fuels domestically produced from natural gas" after "natural gas".

SEC. 124. APPALACHIAN NATIONAL SCENIC TRAIL. (a) ACQUISITIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall—

(A) negotiate agreements with landowners setting terms and conditions for the acquisition of parcels of land and interests in land totaling approximately 580 acres at Saddleback Mountain near Rangeley, Maine, for the benefit of the Appalachian National Scenic Trail;

(B) complete the pending environmental compliance process for the acquisitions; and

(C) acquire the parcels of land and interests in land for consideration in the amount of $4,000,000 plus closing costs customarily paid by the United States.

(2) ACCEPTANCE OF DONATIONS.—The Secretary may accept as donations parcels of land and interests in land at Saddleback Mountain, in addition to those acquired by purchase under paragraph (1), for the benefit of the Appalachian National Scenic Trail.

(b) CONVEYANCE TO THE STATE.—The Secretary shall convey to the State of Maine a portion of the land and interests in land acquired under subsection (a) without consideration, subject to such terms and conditions as the Secretary and the State of Maine agree are necessary to ensure the protection of the Appalachian National Scenic Trail.

SEC. 125. The provisions of S. 2273, as passed in the United States Senate on October 5, 2000 and engrossed, are hereby enacted into law.

SEC. 126. Section 116(a)(1)(A) of the Illinois and Michigan Canal National Heritage Corridor Act of 1984 (98 Stat. 1467) is amended by striking "$250,000" and inserting "$1,000,000".

SEC. 127. The provisions of S. 2885, as passed in the United States Senate on October 5, 2000 and engrossed, are hereby enacted into law.

SEC. 128. None of the funds provided in this or any other Act may be used prior to July 31, 2001, to promulgate or enforce

a final rule to reduce during the 2000–2001 or 2001–2002 winter seasons the use of snowmobiles below current use patterns at a unit in the National Park System: *Provided*, That nothing in this section shall be interpreted as amending any requirement of the Clean Air Act: *Provided further*, That nothing in this section shall preclude the Secretary from taking emergency actions related to snowmobile use in any National Park based on authorities which existed to permit such emergency actions as of the date of enactment of this Act.

SEC. 129. The Secretary of the Interior shall extend until March 31, 2001, the "Extension of Standstill Agreement," entered into on November 22, 1999, by the United States of America and the holders of interests in seven campsite leases in Biscayne Bay, Miami-Dade County, Florida collectively known as "Stiltsville".

SEC. 130. The Secretary of the Interior is authorized to make a grant of $1,300,000 to the State of Minnesota or its political subdivision from funds available to the National Park Service under the heading "Land Acquisition and State Assistance" in Public Law 106–291 to cover the cost of acquisition of land in Lower Phalen Creek near St. Paul, Minnesota in the Mississippi National River and Recreation Area.

SEC. 131. Notwithstanding any provision of law or regulation, funds appropriated in Public Law 106–291 for a cooperative agreement for management of George Washington's Boyhood Home, Ferry Farm, shall be transferred to the George Washington's Fredericksburg Foundation, Inc. (formerly known as Kenmore Association, Inc.) immediately upon signing of the cooperative agreement.

SEC. 132. During the period beginning on the date of the enactment of this Act and ending on June 1, 2001, funds made available to the Secretary of the Interior may not be used to pay salaries or expenses related to the issuance of a request for proposal related to a light rail system to service Grand Canyon National Park.

SEC. 133. None of the funds in this or any other Act may be used by the Secretary of the Interior to remove the five-foot-tall white cross located within the boundary of the Mojave National Preserve in southern California first erected in 1934 by the Veterans of Foreign Wars along Cima Road approximately 11 miles south of Interstate 15.

SEC. 134. Section 6(g) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y–4(g)) is amended by striking "thirty" and inserting "40".

SEC. 135. Funds provided in Public Law 106–291 for Federal land acquisition by the National Park Service in Fiscal Year 2001 for Brandywine Battlefield, Ice Age National Scenic Trail, Mississippi National River and Recreation Area, Shenandoah National Heritage Area, Fallen Timbers Battlefield and Fort Miamis National Historic Site may be used for a grant to a State, local government, or to a land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Act of 1965.

SEC. 136. Notwithstanding any other provision of law, in accordance with title IV—Wildland Fire Emergency Appropriations, Public Law 106–291, from the $35,000,000 provided for community and private land fire assistance, the Secretary of Agriculture, may use

up to $9,000,000 for advance, direct lump sum payments for assistance to eligible individuals, businesses, or other entities, to accomplish the purposes of providing assistance to non-Federal entities most affected by fire. To expedite such financial assistance being provided to eligible recipients, the lump sum payments shall not be subject to 7 CFR 3015, 3019, and 3052 related to the administration of Federal financial assistance.

SEC. 137. (a) IN GENERAL.—The first section of Public Law 91–660 (16 U.S.C. 459h) is amended—

(1) in the first sentence, by striking "That, in" and inserting the following:

"SECTION 1. GULF ISLANDS NATIONAL SEASHORE.

"(a) ESTABLISHMENT.—In"; and

(2) in the second sentence—

(A) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(B) by striking "The seashore shall comprise" and inserting the following:

"(b) COMPOSITION.—

"(1) IN GENERAL.—The seashore shall comprise the areas described in paragraphs (2) and (3).

"(2) AREAS INCLUDED IN BOUNDARY PLAN NUMBERED NS–GI–7100J.—The areas described in this paragraph are": and

(C) by adding at the end the following:

"(3) CAT ISLAND.—Upon its acquisition by the Secretary, the area described in this paragraph is the parcel consisting of approximately 2,000 acres of land on Cat Island, Mississippi, as generally depicted on the map entitled 'Boundary Map, Gulf Islands National Seashore, Cat Island, Mississippi', numbered 635/80085, and dated November 9, 1999 (referred to in this title as the 'Cat Island Map').

"(4) AVAILABILITY OF MAP.—The Cat Island Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

(b) ACQUISITION AUTHORITY.—Section 2 of Public Law 91–660 (16 U.S.C. 459h–1) is amended—

(1) in the first sentence of subsection (a), by striking "lands," and inserting "submerged land, land,"; and

(2) by adding at the end the following:

"(e) ACQUISITION AUTHORITY.—

"(1) IN GENERAL.—The Secretary may acquire, from a willing seller only—

"(A) all land comprising the parcel described in subsection (b)(3) that is above the mean line of ordinary high tide, lying and being situated in Harrison County, Mississippi;

"(B) an easement over the approximately 150-acre parcel depicted as the 'Boddie Family Tract' on the Cat Island Map for the purpose of implementing an agreement with the owners of the parcel concerning the development and use of the parcel; and

"(C)(i) land and interests in land on Cat Island outside the 2,000-acre area depicted on the Cat Island Map; and

"(ii) submerged land that lies within 1 mile seaward of Cat Island (referred to in this title as the 'buffer zone'),

except that submerged land owned by the State of Mississippi (or a subdivision of the State) may be acquired only by donation.

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—Land and interests in land acquired under this subsection shall be administered by the Secretary, acting through the Director of the National Park Service.

"(B) BUFFER ZONE.—Nothing in this title or any other provision of law shall require the State of Mississippi to convey to the Secretary any right, title, or interest in or to the buffer zone as a condition for the establishment of the buffer zone.

"(3) MODIFICATION OF BOUNDARY.—The boundary of the seashore shall be modified to reflect the acquisition of land under this subsection only after completion of the acquisition.".

(c) REGULATION OF FISHING.—Section 3 of Public Law 91–660 (16 U.S.C. 459h–2) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) NO AUTHORITY TO REGULATE MARITIME ACTIVITIES.—Nothing in this title or any other provision of law shall affect any right of the State of Mississippi, or give the Secretary any authority, to regulate maritime activities, including nonseashore fishing activities (including shrimping), in any area that, on the date of enactment of this subsection, is outside the designated boundary of the seashore (including the buffer zone).".

(d) AUTHORIZATION OF MANAGEMENT AGREEMENTS.—Section 5 of Public Law 91–660 (16 U.S.C. 459h–4) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Except"; and

(2) by adding at the end the following:

"(b) AGREEMENTS.—

"(1) IN GENERAL.—The Secretary may enter into agreements—

"(A) with the State of Mississippi for the purposes of managing resources and providing law enforcement assistance, subject to authorization by State law, and emergency services on or within any land on Cat Island and any water and submerged land within the buffer zone; and

"(B) with the owners of the approximately 150-acre parcel depicted as the 'Boddie Family Tract' on the Cat Island Map concerning the development and use of the land.

"(2) NO AUTHORITY TO ENFORCE CERTAIN REGULATIONS.—Nothing in this subsection authorizes the Secretary to enforce Federal regulations outside the land area within the designated boundary of the seashore.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of Public Law 91–660 (16 U.S.C. 459h–10) is amended—

(1) by inserting "(a) IN GENERAL.—" before "There"; and

(2) by adding at the end the following:

"(b) AUTHORIZATION FOR ACQUISITION OF LAND.—In addition to the funds authorized by subsection (a), there are authorized to be appropriated such sums as are necessary to acquire land and submerged land on and adjacent to Cat Island, Mississippi.".

SEC. 138. PERCENTAGE LIMITATIONS ON FEDERAL THRIFT SAVINGS PLAN CONTRIBUTIONS. (a) AMENDMENTS RELATING TO FERS.—

(1) IN GENERAL.—Subsection (a) of section 8432 of title 5, United States Code, is amended—

(A) by striking "(a)" and inserting "(a)(1)";

(B) by striking "10 percent" and all that follows through "period." and inserting "the maximum percentage of such employee's or Member's basic pay for such pay period allowable under paragraph (2).";

(C) by adding at the end the following:

"(2) The maximum percentage allowable under this paragraph shall be determined in accordance with the following table:

"In the case of a pay period beginning in fiscal year:	The maximum percentage allowable is:
2001	11
2002	12
2003	13
2004	14
2005	15
2006 or thereafter	100.".

(2) JUSTICES AND JUDGES.—Paragraph (2) of section 8440a(b) of title 5, United States Code, is amended to read as follows:

"(2) The amount contributed by a justice or judge for any pay period shall not exceed the maximum percentage of such justice's or judge's basic pay for such pay period allowable under section 8440f.".

(3) BANKRUPTCY JUDGES AND MAGISTRATES.—Paragraph (2) of section 8440b(b) of title 5, United States Code, is amended by striking "5 percent" and all that follows through "period." and inserting "the maximum percentage of such bankruptcy judge's or magistrate's basic pay for such pay period allowable under section 8440f.".

(4) COURT OF FEDERAL CLAIMS JUDGES.—Paragraph (2) of section 8440c(b) of title 5, United States Code, is amended by striking "5 percent" and all that follows through "period." and inserting "the maximum percentage of such judge's basic pay for such pay period allowable under section 8440f.".

(5) JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.—The first sentence of section 8440d(b)(2) of title 5, United States Code, is amended to read as follows: "The amount contributed by a judge of the United States Court of Appeals for Veterans Claims for any pay period may not exceed the maximum percentage of such judge's basic pay for such pay period allowable under section 8440f.".

(6) MEMBERS OF THE UNIFORMED SERVICES.—

(A) BASIC PAY.—Subparagraph (A) of section 8440e(d)(1) of title 5, United States Code, is amended by striking "5 percent" and all that follows through "period." and inserting "the maximum percentage of such member's basic pay for such pay period allowable under section 8440f.".

(B) COMPENSATION.—Subparagraph (B) of section 8440e(d)(1) of title 5, United States Code, is amended by striking "5 percent" and all that follows through "period." and inserting "the maximum percentage of such member's

compensation for such pay period (received under such section 206) allowable under section 8440f.".

(7) MAXIMUM PERCENTAGE ALLOWABLE.—

(A) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8440e the following:

"§ 8440f. Maximum percentage allowable for certain participants

"The maximum percentage allowable under this section shall be determined in accordance with the following table:

"In the case of a pay period beginning in fiscal year:	The maximum percentage allowable is:
2001	6
2002	7
2003	8
2004	9
2005	10
2006 or thereafter	100.".

(B) CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8440e the following:

"8440f. Maximum percentage allowable for certain participants.".

(b) AMENDMENTS RELATING TO CSRS.—Paragraph (2) of section 8351(b) of title 5, United States Code, is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by striking "5 percent" and all that follows through "period." and inserting "the maximum percentage of such employee's or Member's basic pay for such pay period allowable under subparagraph (B).''; and

(3) by adding at the end the following:

"(B) The maximum percentage allowable under this subparagraph shall be determined in accordance with the following table:

"In the case of a pay period beginning in fiscal year:	The maximum percentage allowable is:
2001	6
2002	7
2003	8
2004	9
2005	10
2006 or thereafter	100.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) COORDINATION WITH ELECTION PERIODS.—The Executive Director shall by regulation determine the first election period in which elections may be made consistent with the amendments made by this section.

(3) DEFINITIONS.—For purposes of this section—

(A) the term "election period" means a period afforded under section 8432(b) of title 5, United States Code; and

(B) the term "Executive Director" has the meaning given such term by section 8401(13) of title 5, United States Code.

SEC. 139. EXCLUSION OF ELEMENTS OF UNITED STATES SECRET SERVICE FROM CERTAIN ACTIVITIES. Section 7103(a)(3) of title 5, United States Code, is amended—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period and inserting "; or"; and

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

"(H) the United States Secret Service and the United States Secret Service Uniformed Division.".

SEC. 140. (a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 2001 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.7 percent.

(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 2001.

SEC. 141. REPEAL OF MANDATORY SEPARATION REQUIREMENT. (a) IN GENERAL.—Section 8335 of title 5, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8339(q) of title 5, United States Code, is amended by striking "8335(d)" and inserting "8335(c)".

SEC. 142. Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14) as amended, is hereby amended by inserting after the phrase "twenty-four hours" the following new phrase: "(except in the case of Alaska where such time limit may be forty-eight hours in fiscal years 2000 through 2002)".

SEC. 143. (a) Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) Within 60 days after receiving a request (made in such form and manner and containing such information as the Commission may require) under this subsection from a low-power television station to which this subsection applies, the Commission shall authorize the licensee or permittee of that station to provide digital data service subject to the requirements of this subsection as a pilot project to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access to unserved areas.

"(2) The low-power television stations to which this subsection applies are as follows:

"(A) KHLM–LP, Houston, Texas.
"(B) WTAM–LP, Tampa, Florida.
"(C) WWRJ–LP, Jacksonville, Florida.
"(D) WVBG–LP, Albany, New York.
"(E) KHHI–LP, Honolulu, Hawaii.
"(F) KPHE–LP (K19DD), Phoenix, Arizona.
"(G) K34FI, Bozeman, Montana.
"(H) K65GZ, Bozeman, Montana.
"(I) WXOB–LP, Richmond, Virginia.
"(J) WIIW–LP, Nashville, Tennessee.

"(K) A station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough.

"(L) WSPY–LP, Plano, Illinois.

"(M) W24AJ, Aurora, Illinois.

"(3) Notwithstanding any requirement of section 553 of title 5, United States Code, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act. The regulations shall set forth—

"(A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;

"(B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;

"(C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;

"(D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;

"(E) procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and

"(F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).

"(4) A low-power television station to which this subsection applies may not provide digital data service unless—

"(A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission's existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and

"(B) the station complies with the Commission's regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.

"(5)(A) The Commission may limit the provision of digital data service by a low-power television station to which this subsection applies if the Commission finds that—

"(i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or

"(ii) the provision of 1-way digital data service by that station causes any interference.

"(B) The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital television stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

"(i) to operate within television channels 2 through 51, inclusive; or

"(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

"(C) The Commission shall require quarterly reports from each station authorized to provide digital data services under this subsection that include—

"(i) information on the station's experience with interference complaints and the resolution thereof;

"(ii) information on the station's market success in providing digital data service; and

"(iii) such other information as the Commission may require in order to administer this subsection.

"(D) The Commission shall resolve any complaints of interference with television reception caused by any station providing digital data service authorized under this subsection within 60 days after the complaint is received by the Commission.

"(6) The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this subsection an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this subsection, and regulating and supervising the provision of digital data service by low-power television stations under this subsection. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

"(7) In this subsection, the term 'digital data service' includes—

"(A) digitally-based interactive broadcast service; and

"(B) wireless Internet access, without regard to—

"(i) whether such access is—

"(I) provided on a one-way or a two-way basis;

"(II) portable or fixed; or

"(III) connected to the Internet via a band allocated to Interactive Video and Data Service; and

"(ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

"(8) Nothing in this subsection limits the authority of the Commission under any other provision of law.".

(b) The Federal Communications Commission shall submit a report to the Congress on June 30, 2001, and June 30, 2002, evaluating the utility of using low-power television stations to provide high-speed digital data service. The reports shall be based on the pilot projects authorized by section 336(h) of the Communications Act of 1934 (47 U.S.C. 336(h)).

SEC. 144. (a) The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) is amended—

(1) in section 303(d)(1)(A) by striking "October 1, 2000," and inserting "October 1, 2002,";

(2) in section 303(d)(5) by striking "October 1, 2000," and inserting "October 1, 2002,";

(3) in section 407(b) by striking "October 1, 2000," and inserting "October 1, 2002,"; and

(4) in section 407(c)(1) by striking "October 1, 2000," and inserting "October 1, 2002,".

(b) Notwithstanding sections 303(d)(1)(A) and 303(d)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by this section, the Pacific Fishery Management Council may recommend and the Secretary of Commerce may approve and implement any fishery management plan, plan amendment, or regulation, for fixed gear sablefish subject to the jurisdiction of such Council, that—

(1) allows the use of more than one groundfish fishing permit by each fishing vessel; and/or

(2) sets cumulative trip limit periods, up to 12 months in any calendar year, that allow fishing vessels a reasonable opportunity to harvest the full amount of the associated trip limits.

Notwithstanding subsection (a), the Gulf of Mexico Fishery Management Council may develop a biological, economic, and social profile of any fishery under its jurisdiction that may be considered for management under a quota management system, including the benefits and consequences of the quota management systems considered. The North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner.

(c)(1) Public Law 101–380, as amended by section 2204 of chapter 2 of title II of Public Law 106–246, is amended further—

(A) by striking the second sentence of section 5008(c) and inserting in lieu thereof "The Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Institute.";

(B) by inserting the following sentence at the end of section 5008(e): "The administrative funds of the Institute and the administrative funds of the North Pacific Research Board created under Public Law 105–83 may be used to jointly administer such programs at the discretion of the North Pacific Research Board."; and

(C) in section 5006(c), as amended by this Act or any other Act making appropriations for fiscal year 2001, by striking the colon immediately before the first proviso and inserting in lieu thereof, "of which up to $3,000,000 may be used for the lease payment to the Alaska SeaLife Center under section 5008(b)(2):".

(2) Section 401(e) of Public Law 105–83 is amended—

(A) in paragraph (2) by striking "and recommended for Secretarial approval";

(B) in paragraph (3)(A) by striking ", who shall be a co-chair of the Board";

(C) in paragraph (3)(F) by striking ", who shall be a co-chair of the Board";

(D) in paragraph (4)(A) by striking "and administer";

(E) in paragraph (4)(B) by striking the first sentence;

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

"(5) All decisions of the Board, including grant recommendations, shall be by majority vote of the members listed in paragraphs (3)(A), (3)(F), (3)(G), (3)(J), and (3)(N), in consultation with the other members. The five voting members may act on behalf of the Board in all matters of administration, including the disposition of research funds not made available by this section, at any time on or after October 1, 2000."; and

(G) in paragraph (3) by adding at the end the following:

"(N) one member who shall represent fishing interests and shall be nominated by the Board and appointed by the Secretary.".

(3) Funds made available for the construction of the NOAA laboratory at Lena Point shall be considered incremental funding for the initial phase of construction at Lena Point for site work and related infrastructure and systems installation.

(4) Notwithstanding any other provision of law, funds made available by this Act or any other Act for the Alaska SeaLife Center shall be considered direct payments for all purposes of applicable law.

(5) Public Law 99–5 is amended—

(A) by inserting after section 3(e) the following:

"(f) The United States shall be represented on the Transboundary Panel by seven panel members, of whom—

"(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

"(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

"(3) five shall be individuals knowledgeable and experienced in the salmon fisheries for which the Transboundary Panel is responsible.";

(B) by renumbering the remaining subsections;

(C) in section 3(g), as redesignated by this subsection, by striking "The appointing authorities" and inserting in lieu thereof "For the northern, southern, and Fraser River panels, the appointing authorities"; and

(D) in section 3(h)(3), as redesignated by this subsection, by striking "northern and southern" and inserting in lieu thereof "northern, southern, and transboundary".

(6) The fishery research vessel for which funds were appropriated in Public Law 106–113 shall be homeported in Kodiak, Alaska, and is hereby named "OSCAR DYSON".

(d)(1) The Secretary of Commerce (hereinafter "the Secretary") shall, after notice and opportunity for public comment, adopt final regulations not later than May 1, 2001 to implement a fishing capacity reduction program for crab fisheries included in the Fishery Management Plan for Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands (hereinafter "BSAI crab fisheries"). In implementing the program the Secretary shall—

(A) reduce the fishing capacity in the BSAI crab fisheries by permanently reducing the number of license limitation program crab licenses;

(B) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges, for all fisheries subject to the jurisdiction of the United States, issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) for which a BSAI crab fisheries reduction permit is surrendered and revoked under section 6011(b) of title 50, Code of Federal Regulations;

(C) ensure that the Secretary of Transportation is notified of each vessel for which a reduction permit is surrendered and revoked under the program, with a request that such Secretary permanently revoke the fishery endorsement of each such vessel and refuse permission to transfer any such vessel to a foreign flag under paragraph (5);

(D) ensure that vessels removed from the BSAI crab fisheries under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels contractually agree that such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations;

(E) ensure that vessels removed from the BSAI crab fisheries, the owners of such vessels, and the holders of fishery permits for such vessels forever relinquish any claim associated with such vessel, permits, and any catch history associated with such vessel or permits that could qualify such vessel, vessel owner, or permit holder for any present or future limited access system fishing permits in the United States fisheries based on such vessel, permits, or catch history;

(F) not include the purchase of Norton Sound red king crab or Norton Sound blue king crab endorsements in the program, though any such endorsements associated with a reduction permit or vessel made ineligible or scrapped under the program shall also be surrendered and revoked as if surrendered and revoked pursuant to section 600.1011(b) of title 50, Code of Federal Regulations;

(G) seek to obtain the maximum sustained reduction in fishing capacity at the least cost by establishing bidding procedures that—

(i) assign a bid score to each bid by dividing the price bid for each reduction permit by the total value of the crab landed in the most recent 5-year period in each crab fishery from 1990 through 1999 under that permit, with the value for each year determined by multiplying the average price per pound published by the State of Alaska in each year for each crab fishery included in such reduction permit by the total pounds landed in each crab fishery under that permit in that year; and

(ii) use a reverse auction in which the lowest bid score ranks first, followed by each bid with the next lowest bid score, until the total bid amount of all bids equals a reduction cost that the next lowest bid would cause to exceed $100,000,000;

(H) not waive or otherwise make inapplicable any requirements of the License Limitation Program applicable to such crab fisheries, in particular any requirements in sections 679.4(k) and (l) of title 50, Code of Federal Regulations;

(I) not waive or otherwise make inapplicable any catcher vessel sideboards implemented under the American Fisheries Act (AFA), except that the North Pacific Fishery Management Council shall recommend to the Secretary and to the State of Alaska, not later than February 16, 2001, and the Secretary and the State of Alaska shall implement as appropriate, modifications to such sideboards to the extent necessary to permit AFA catcher vessels that remain in the crab fisheries to share proportionately in any increase in crab harvest opportunities that accrue to all remaining AFA and non-AFA catcher vessels if the fishing capacity reduction program required by this section is implemented;

(J) establish sub-amounts and repayment fees for each BSAI crab fishery prosecuted under a separate endorsement for repayment of the reduction loan, such that—

(i) a reduction loan sub-amount is established for each separate BSAI crab fishery (other than Norton Sound red king crab or Norton Sound blue king crab) by dividing the total value of the crab landed in that fishery under all reduction permits by the total value of all crab landed under such permits in the BSAI crab fisheries (determined using the same average prices and years used under subparagraph (G)(i) of this paragraph), and multiplying the reduction loan amount by the percentage expressed by such ratio; and

(ii) fish sellers who participate in the crab fishery under each endorsement repay the reduction loan sub-amount attributable to that fishery; and

(K) notwithstanding section 1111(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f(b)(4)), establish a repayment period for the reduction loan of not less than 30 years.

(2)(A) Only persons to whom a non-interim BSAI crab license and an area/species endorsement have been issued (other than persons to whom only a license and an area/species endorsement for Norton Sound red king crab or Norton Sound blue king crab have been issued) for vessels that—

(i) qualify under the License Limitation Program criteria set forth in section 679.4 of title 50, Code of Federal Regulations, and

(ii) have made at least one landing of BSAI crab in either 1996, 1997, or prior to February 7 in 1998, may submit a bid in the fishing capacity reduction program established by this section.

(B) After the date of enactment of this section—

(i) no vessel 60 feet or greater in length overall may participate in any BSAI crab fishery (other than for Norton Sound red king crab or Norton Sound blue king crab) unless such vessel meets the requirements set forth in subparagraphs (A)(i) and (A)(ii) of this paragraph; and

(ii) no vessel between 33 and 60 feet in length overall may participate in any BSAI crab fishery (other than for Norton Sound red king crab or Norton Sound blue king crab) unless such vessel meets the requirements set forth in subparagraph (A)(i) of this paragraph. Nothing in this paragraph shall be construed to affect the requirements for participation in the fisheries for Norton Sound red king crab or Norton Sound blue king crab. The Secretary may, on a case by case basis and after notice and opportunity for public comment, waive the application of subparagraph (A)(ii) of this paragraph if the Secretary determines such waiver is necessary to implement one of the specific exemptions to the recent participation requirement that were recommended by the North Pacific Fishery Management Council in the record of its October, 1998 meeting.

(3) The fishing capacity reduction program required under this subsection shall be implemented under this subsection and sections 312(b)–(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)–(e)). Section 312 and the regulations found in Subpart L of Part 600 of title 50, Code of Federal Regulations, shall apply only to the extent such section or regulations are not inconsistent with or made inapplicable by the specific provisions of this subsection. Sections 600.1001, 600.1002, 600.1003, 600.1005, 600.1010(b), 600.1010(d)(1), 600.1011(d), the last sentence of 600.1011(a), and the last sentence of 600.1014(f) of such Subpart shall not apply to the program implemented under this subsection. The program shall be deemed accepted under section 600.1004, and any time period specified in Subpart L that would prevent the Secretary from complying with the May 1, 2001 date required by this subsection shall be modified as appropriate to permit compliance with that date. The referendum required for the program under this subsection shall be a post-bidding referendum under section 600.1010 of title 50, Code of Federal Regulations.

(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed in equal parts through a reduction loan of $50,000,000 under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) and $50,000,000 which is authorized to be appropriated for the purposes of such program.

(B) Of the $1,000,000 appropriated in section 120 of division A of Public Law 105–277 for the cost of a direct loan in the Bering Sea and Aleutian Islands crab fisheries—

(i) $500,000 shall be for the cost of guaranteeing the reduction loan required under subparagraph (A) of this paragraph in accordance with the requirements of the Federal Credit Reform Act; and

(ii) $500,000 shall be available to the Secretary to pay for the cost of implementing the fishing capacity reduction program required by this subsection.

(C) The funds described in this subsection shall remain available, without fiscal year limitation, until expended. Any funds not used for the fishing capacity reduction program required by this subsection, whether due to a rejection by referendum or otherwise, shall be available on or after October 15, 2002, without fiscal year limitation, for assistance to fishermen or fishing communities.

(5)(A) The Secretary of Transportation shall, upon notification and request by the Secretary, for each vessel identified in such notification and request—

(i) permanently revoke any fishery endorsement issued to such vessel under section 12108 of title 46, United States Code; and

(ii) refuse to grant the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for the placement of such vessel under foreign registry or the operation of such vessel under the authority of a foreign country.

(B) The Secretary shall, after notice and opportunity for public comment, adopt final regulations not later than May 1, 2001, to prohibit any vessel for which a reduction permit is surrendered and revoked under the fishing capacity reduction program required by this section from engaging in fishing activities on the high seas or under the jurisdiction of any foreign country while operating under the United States flag.

(6) The purpose of this subsection is to implement a fishing capacity reduction program for the BSAI crab fisheries that results in final action to permanently remove harvesting capacity from such fisheries prior to December 31, 2001. In implementing this subsection the Secretary is directed to use, to the extent practicable, information collected and maintained by the State of Alaska. Any requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, or any Executive order that would, in the opinion of the Secretary, prevent the Secretary from meeting the deadlines set forth in this subsection shall not apply to the fishing capacity reduction program or the promulgation of regulations to implement such program required by this subsection. Nothing in this subsection shall be construed to prohibit the North Pacific Fishery Management Council from recommending, or the Secretary from approving, changes to any Fishery Management Plan, License Limitation Program, or American Fisheries Act provisions affecting catcher vessel sideboards in accordance with applicable law: *Provided*, That except as specifically provided in this subsection, such Council may not recommend, and the Secretary may not approve, any action that would have the

effect of increasing the number of vessels eligible to participate in the BSAI crab fisheries after March 1, 2001.

(e)(1) This subsection may be referred to as the "Pribilof Islands Transition Act".

(2) The purpose of this subsection is to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska.

(3) Public Law 89–702 (16 U.S.C. 1151 et seq.), popularly known and referred to in this subsection as the Fur Seal Act of 1966, is amended by amending section 206 (16 U.S.C. 1166) to read as follows:

"SEC. 206. (a)(1) Subject to the availability of appropriations, the Secretary shall provide financial assistance to any city government, village corporation, or tribal council of St. George, Alaska, or St. Paul, Alaska.

"(2) Notwithstanding any other provision of law relating to matching funds, funds provided by the Secretary as assistance under this subsection may be used by the entity as non-Federal matching funds under any Federal program that requires such matching funds.

"(3) The Secretary may not use financial assistance authorized by this Act—

"(A) to settle any debt owed to the United States;

"(B) for administrative or overhead expenses; or

"(C) for contributions sought or required from any person for costs or fees to clean up any matter that was caused or contributed to by such person on or after March 15, 2000.

"(4) In providing assistance under this subsection the Secretary shall transfer any funds appropriated to carry out this section to the Secretary of the Interior, who shall obligate such funds through instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(5) In any fiscal year for which less than all of the funds authorized under subsection (c)(1) are appropriated, such funds shall be distributed under this subsection on a pro rata basis among the entities referred to in subsection (c)(1) in the same proportions in which amounts are authorized by that subsection for grants to those entities.

"(b)(1) Subject to the availability of appropriations, the Secretary shall provide assistance to the State of Alaska for designing, locating, constructing, redeveloping, permitting, or certifying solid waste management facilities on the Pribilof Islands to be operated under permits issued to the City of St. George and the City of St. Paul, Alaska, by the State of Alaska under section 46.03.100 of the Alaska Statutes.

"(2) The Secretary shall transfer any appropriations received under paragraph (1) to the State of Alaska for the benefit of rural and Native villages in Alaska for obligation under section 303 of Public Law 104–182, except that subsection (b) of that section shall not apply to those funds.

"(3) In order to be eligible to receive financial assistance under this subsection, not later than 180 days after the date of enactment of this paragraph, each of the Cities of St. Paul and St. George shall enter into a written agreement with the State of Alaska under which such City shall identify by its legal boundaries the

tract or tracts of land that such City has selected as the site for its solid waste management facility and any supporting infrastructure.

"(c) There are authorized to be appropriated to the Secretary for fiscal years 2001, 2002, 2003, 2004, and 2005—

"(1) for assistance under subsection (a) a total not to exceed—

"(A) $9,000,000, for grants to the City of St. Paul;

"(B) $6,300,000, for grants to the Tanadgusix Corporation;

"(C) $1,500,000, for grants to the St. Paul Tribal Council;

"(D) $6,000,000, for grants to the City of St. George;

"(E) $4,200,000, for grants to the St. George Tanaq Corporation; and

"(F) $1,000,000, for grants to the St. George Tribal Council; and

"(2) for assistance under subsection (b), for fiscal years 2001, 2002, 2003, 2004, and 2005 a total not to exceed—

"(A) $6,500,000 for the City of St. Paul; and

"(B) $3,500,000 for the City of St. George.

"(d) None of the funds authorized by this section may be available for any activity a purpose of which is to influence legislation pending before the Congress, except that this subsection shall not prevent officers or employees of the United States or of its departments, agencies, or commissions from communicating to Members of Congress, through proper channels, requests for legislation or appropriations that they consider necessary for the efficient conduct of public business.

"(e) Neither the United States nor any of its agencies, officers, or employees shall have any liability under this Act or any other law associated with or resulting from the designing, locating, contracting for, redeveloping, permitting, certifying, operating, or maintaining any solid waste management facility on the Pribilof Islands as a consequence of—

"(1) having provided assistance to the State of Alaska under subsection (b); or

"(2) providing funds for, or planning, constructing, or operating, any interim solid waste management facilities that may be required by the State of Alaska before permanent solid waste management facilities constructed with assistance provided under subsection (b) are complete and operational.

"(f) Each entity which receives assistance authorized under subsection (c) shall submit an audited statement listing the expenditure of that assistance to the Committee on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate, on the last day of fiscal years 2002, 2004, and 2006.

"(g) Amounts authorized under subsection (c) are intended by Congress to be provided in addition to the base funding appropriated to the National Oceanic and Atmospheric Administration in fiscal year 2000.".

(4) Section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165) is amended—

(A) by amending subsection (c) to read as follows:

"(c) Not later than 3 months after the date of the enactment of the Pribilof Islands Transition Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that includes—

"(1) a description of all property specified in the document referred to in subsection (a) that has been conveyed under that subsection;

"(2) a description of all Federal property specified in the document referred to in subsection (a) that is going to be conveyed under that subsection; and

"(3) an identification of all Federal property on the Pribilof Islands that will be retained by the Federal Government to meet its responsibilities under this Act, the Convention, and any other applicable law."; and

(B) by striking subsection (g).

(5)(A)(i) The Secretary of Commerce shall not be considered to have any obligation to promote or otherwise provide for the development of any form of an economy not dependent on sealing on the Pribilof Islands, Alaska, including any obligation under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note).

(ii) This subparagraph shall not affect any cause of action under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note)—

(I) that arose before the date of the enactment of this title; and

(II) for which a judicial action is filed before the expiration of the 5-year period beginning on the date of the enactment of this title.

(iii) Nothing in this subsection shall be construed to imply that—

(I) any obligation to promote or otherwise provide for the development in the Pribilof Islands of any form of an economy not dependent on sealing was or was not established by section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166), section 3(c)(1)(A) of Public Law 104–91 (16 U.S.C. 1165 note), or any other provision of law; or

(II) any cause of action could or could not arise with respect to such an obligation.

(iv) Section 3(c)(1) of Public Law 104–91 (16 U.S.C. 1165 note) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (D) in order as subparagraphs (A) through (C).

(B)(i) Subject to paragraph (5)(B)(ii), there are terminated all obligations of the Secretary of Commerce and the United States to—

(I) convey property under section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165); and

(II) carry out cleanup activities, including assessment, response, remediation, and monitoring, except for postremedial measures such as monitoring and operation and maintenance activities related to National Oceanic and Atmospheric Administration administration of the Pribilof Islands, Alaska, under section 3 of Public Law 104–91 (16 U.S.C. 1165 note) and the Pribilof Islands Environmental Restoration Agreement

between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996.

(ii) Paragraph (5)(B)(i) shall apply on and after the date on which the Secretary of Commerce certifies that—

(I) the State of Alaska has provided written confirmation that no further corrective action is required at the sites and operable units covered by the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996, with the exception of postremedial measures, such as monitoring and operation and maintenance activities;

(II) the cleanup required under section 3(a) of Public Law 104–91 (16 U.S.C. 1165 note) is complete;

(III) the properties specified in the document referred to in subsection (a) of section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165(a)) can be unconditionally offered for conveyance under that section; and

(IV) all amounts appropriated under section 206(c)(1) of the Fur Seal Act of 1966, as amended by this title, have been obligated.

(iii)(I) On and after the date on which section 3(b)(5) of Public Law 104–91 (16 U.S.C. 1165 note) is repealed pursuant to subparagraph (C), the Secretary of Commerce may not seek or require financial contribution by or from any local governmental entity of the Pribilof Islands, any official of such an entity, or the owner of land on the Pribilof Islands, for cleanup costs incurred pursuant to section 3(a) of Public Law 104–91 (as in effect before such repeal), except as provided in subparagraph (B)(iii)(II).

(II) Subparagraph (B)(iii)(I) shall not limit the authority of the Secretary of Commerce to seek or require financial contribution from any person for costs or fees to clean up any matter that was caused or contributed to by such person on or after March 15, 2000.

(iv) For purposes of paragraph (2)(C), the following requirements shall not be considered to be conditions on conveyance of property:

(I) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration continued access to the property to conduct environmental monitoring following remediation activities.

(II) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration access to the property to continue the operation, and eventual closure, of treatment facilities.

(III) Any requirement that a potential transferee must comply with institutional controls to ensure that an environmental cleanup remains protective of human health or the environment that do not unreasonably affect the use of the property.

(IV) Valid existing rights in the property, including rights granted by contract, permit, right-of-way, or easement.

(V) The terms of the documents described in subparagraph (D)(ii).

(C) Effective on the date on which the Secretary of Commerce makes the certification described in subparagraph (b)(2), the following provisions are repealed:

(i) Section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165).

(ii) Section 3 of Public Law 104–91 (16 U.S.C. 1165 note).

(D)(i) Nothing in this subsection shall affect any obligation of the Secretary of Commerce, or of any Federal department or agency, under or with respect to any document described in subparagraph (D)(ii) or with respect to any lands subject to such a document.

(ii) The documents referred to in subparagraph (D)(i) are the following:

(I) The Transfer of Property on the Pribilof Islands: Description, Terms, and Conditions, dated February 10, 1984, between the Secretary of Commerce and various Pribilof Island entities.

(II) The Settlement Agreement between Tanadgusix Corporation and the City of St. Paul, dated January 11, 1988, and approved by the Secretary of Commerce on February 23, 1988.

(III) The Memorandum of Understanding between Tanadgusix Corporation, Tanaq Corporation, and the Secretary of Commerce, dated December 22, 1976.

(E)(i) Except as provided in subparagraph (E)(ii), the definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this paragraph.

(ii) For purposes of this paragraph, the term "Natives of the Pribilof Islands" includes the Tanadgusix Corporation, the St. George Tanaq Corporation, and the city governments and tribal councils of St. Paul and St. George, Alaska.

(6)(A) Section 3 of Public Law 104–91 (16 U.S.C. 1165 note) and the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.) are amended by—

(i) striking "(d)" and all that follows through the heading for subsection (d) of section 3 of Public Law 104–91 and inserting "SEC. 212."; and

(ii) moving and redesignating such subsection so as to appear as section 212 of the Fur Seal Act of 1966.

(B) Section 201 of the Fur Seal Act of 1966 (16 U.S.C. 1161) is amended by striking "on such Islands" and insert "on such property".

(C) The Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.) is amended by inserting before title I the following:

"SECTION 1. This Act may be cited as the 'Fur Seal Act of 1966'.".

(7) Section 3 of Public Law 104–91 (16 U.S.C. 1165 note) is amended—

(A) by striking subsection (f) and inserting the following:

"(f)(1) There are authorized to be appropriated $10,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005 for the purposes of carrying out this section.

"(2) None of the funds authorized by this subsection may be expended for the purpose of cleaning up or remediating any landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, or contaminants, including petroleum products and their derivatives, left by the Department of Defense or any of its components on lands on the Pribilof Islands, Alaska."; and

(B) by adding at the end the following:

"(g)(1) Of amounts authorized under subsection (f) for each of fiscal years 2001, 2002, 2003, 2004, and 2005, the Secretary

may provide to the State of Alaska up to $2,000,000 per fiscal year to capitalize a revolving fund to be used by the State for loans under this subsection.

"(2) The Secretary shall require that any revolving fund established with amounts provided under this subsection shall be used only to provide low-interest loans to Natives of the Pribilof Islands to assess, respond to, remediate, and monitor contamination from lead paint, asbestos, and petroleum from underground storage tanks.

"(3) The definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section, except that the term 'Natives of the Pribilof Islands' includes the Tanadgusix and Tanaq Corporations.

"(4) Before the Secretary may provide any funds to the State of Alaska under this section, the State of Alaska and the Secretary must agree in writing that, on the last day of fiscal year 2011, and of each fiscal year thereafter until the full amount provided to the State of Alaska by the Secretary under this section has been repaid to the United States, the State of Alaska shall transfer to the Treasury of the United States monies remaining in the revolving fund, including principal and interest paid into the revolving fund as repayment of loans.".

(f)(1) The President, after consultation with the Governor of the State of Hawaii, may designate any Northwestern Hawaiian Islands coral reef or coral reef ecosystem as a coral reef reserve to be managed by the Secretary of Commerce.

(2) Upon the designation of a reserve under paragraph (1) by the President, the Secretary shall—

(A) take action to initiate the designation of the reserve as a National Marine Sanctuary under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433);

(B) establish a Northwestern Hawaiian Islands Reserve Advisory Council under section 315 of that Act (16 U.S.C. 1445a), the membership of which shall include at least one representative from Native Hawaiian groups; and

(C) until the reserve is designated as a National Marine Sanctuary, manage the reserve in a manner consistent with the purposes and policies of that Act.

(3) Notwithstanding any other provision of law, no closure areas around the Northwestern Hawaiian Islands shall become permanent without adequate review and comment.

(4) The Secretary shall work with other Federal agencies and the Director of the National Science Foundation, to develop a coordinated plan to make vessels and other resources available for conservation or research activities for the reserve.

(5) If the Secretary has not designated a national marine sanctuary in the Northwestern Hawaiian Islands under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434) before October 1, 2005, the Secretary shall conduct a review of the management of the reserve under section 304(e) of that Act (16 U.S.C. 1434(e)).

(6) No later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, describing actions taken to implement this subsection, including costs of monitoring, enforcing, and addressing marine debris, and the extent to which the

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fiscal or other resources necessary to carry out this subsection are reflected in the Budget of the United States Government submitted by the President under section 1104 of title 31, United States Code.

(7) There are authorized to be appropriated to the Secretary of Commerce to carry out the provisions of this subsection such sums, not exceeding $4,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005, as are reported under paragraph (5) to be reflected in the Budget of the United States Government.

(g) Section 111(b)(1) of the Sustainable Fisheries Act (16 U.S.C. 1855 nt) is amended by striking the last sentence and inserting, "There are authorized to be appropriated to carry out this subsection $500,000 for each fiscal year.".

SEC. 145. (a) Section 4(b)(1) of the Department of State Special Agents Retirement Act of 1998 (22 U.S.C. 4044 note; Public Law 105–382; 112 Stat. 3409) is amended by inserting "or participant who was serving as of January 1, 1997" after "employed participant".

(b) The amendment made by this section shall take effect on January 1, 2001.

SEC. 146. (a) Congress makes the following findings:

(1) Total steel imports in 2000 will be over 2½ times higher than in 1991, continuing the alarming trend of sharply increasing steel imports over the past decade.

(2) Unprecedented levels of steel imports flooded the United States market in 1998 and 1999, causing a crisis in which thousands of steelworkers were laid off and six steel companies went bankrupt.

(3) The domestic steel industry still has not had an opportunity to recover from the 1998–1999 steel import crisis, and steel imports are again causing serious injury to United States steel producers and workers.

(4) Total steel imports through August 2000 are 17 percent higher than over the same period in 1999 and greater even than imports over the same period in 1998, a record year.

(5) Steel prices continue to be depressed, with hot-rolled steel prices 12 percent lower in August 2000 than in the first quarter of 1998, and average import customs values for all steel products more than 15 percent lower over the same period.

(6) The United States Government must maintain and fully enforce all existing relief against foreign unfair trade.

(7) The United States steel industry is a clean, highly efficient industry having modernized itself at great human and financial cost, shedding over 330,000 jobs and investing more than $50,000,000,000 over the last 20 years.

(8) Capacity utilization in the United States steel industry has fallen sharply since the beginning of the year and the market capitalization and debt ratings of the major United States steel firms are at precarious levels.

(9) The Department of Commerce recently documented the underlying market-distorting practices and longstanding structural problems that plague the global steel trade with excess capacity and cause diversion of unfairly traded foreign steel to the United States.

(10) The President recognized that unfair trade played a significant role in the devastating import surge of steel and recognized the need to vigorously enforce the trade laws.

(b) Congress calls upon the President—

(1) to take all appropriate action within his power to provide relief from injury caused by steel imports; and

(2) to immediately request the United States International Trade Commission to commence an expedited investigation for positive adjustment under section 201 of the Trade Act of 1974 of such steel imports.

SEC. 147. Section 5(b)(1) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(1); popularly known as the "Johnson Act") is amended by inserting "for a voyage or a segment of a voyage that begins and ends in the State of Hawaii, or" after "Except".

SEC. 148. (a) Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended by inserting ", other than a non-commercial educational broadcast station," after "use of a broadcasting station".

(b) The Federal Communications Commission shall take no action against any non-commercial educational broadcast station which declines to carry a political advertisement.

SEC. 149. The Small Business Innovation Research program, otherwise expiring at the end of fiscal year 2000, is authorized to continue in effect during fiscal year 2001.

SEC. 150. There is hereby appropriated for payment to the Ricky Ray Hemophilia Relief Fund, as provided by Public Law 105–369, $105,000,000, of which notwithstanding any other provision of law $10,000,000 shall be for program management of the Health Resources and Services Administration, to remain available until expended.

SEC. 151. (a) There is hereby appropriated to a separate account to be established in the Department of Labor for expenses of administering the Energy Employees Occupational Illness Compensation Act, $60,400,000, 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, such sums as may be necessary in FY 2001 to carry out those authorities.

(b) For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, amounts appropriated under subsection (a) shall be direct spending: *Provided*, That amounts appropriated annually thereafter for such administrative expenses shall be direct spending.

SEC. 152. TREATMENT OF CERTAIN CANCER HOSPITALS. (a) IN GENERAL.—Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)) is amended—

(1) in subclause (I) by striking "or" at the end;

(2) in subclause (II) by striking the semicolon at the end and inserting ", or"; and

(3) by adding at the end the following:

"(III) a hospital that was recognized as a clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of February 18, 1998, that has never been reimbursed for inpatient hospital services pursuant to a reimbursement system under a demonstration project under section 1814(b), that is a freestanding facility organized primarily for treatment of and research on cancer and is not a unit of another hospital, that as of the date of the enactment of this subclause, is licensed for 162 acute care beds, and that demonstrates for the 4-year period ending on June 30,

1999, that at least 50 percent of its total discharges have a principal finding of neoplastic disease, as defined in subparagraph (E);" and

(b) CONFORMING AMENDMENT.—Section 1886(d)(1)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(E)) is amended by striking "For purposes of subparagraph (B)(v)(II)" and inserting "For purposes of subclauses (II) and (III) of subparagraph (B)(v)".

(c) PAYMENT.—

(1) APPLICATION TO COST REPORTING PERIODS.—Any classification by reason of section 1886(d)(1)(B)(v)(III) of the Social Security Act (as added by subsection (a)) shall apply to 12-month cost reporting periods beginning on or after July 1, 1999.

(2) BASE YEAR.—Notwithstanding the provisions of section 1886(b)(3)(E) of such Act (42 U.S.C. 1395ww(b)(3)(E)) or other provisions to the contrary, the base cost reporting period for purposes of determining the target amount for any hospital classified by reason of section 1886(d)(1)(B)(v)(III) of such Act (as added by subsection (a)) shall be the 12-month cost reporting period beginning on July 1, 1995.

(3) DEADLINE FOR PAYMENTS.—Any payments owed to a hospital by reason of this subsection shall be made expeditiously, but in no event later than 1 year after the date of the enactment of this Act.

SEC. 153. (a) Section 4(2) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended—

(1) by inserting "Alabama," before "Arkansas";

(2) in paragraph (G), by striking "and" at the end;

(3) in paragraph (H)—

(A) by striking "and" before "such"; and

(B) by inserting "and" after the semicolon at the end; and

(4) by adding at the end the following:

"(I) the Alabama counties of Pickens, Greene, Sumter, Choctaw, Clarke, Washington, Marengo, Hale, Perry, Wilcox, Lowndes, Bullock, Macon, Barbour, Russell, and Dallas;";

(b) At the end of section 382A of "The Delta Regional Authority Act of 2000" as incorporated in this Act, insert the following:

"(4) Notwithstanding any other provision of law, the State of Alabama shall be a full member of the Delta Regional Authority and shall be entitled to all rights and privileges that said membership affords to all other participating States in the Delta Regional Authority.".

SEC. 154. NORTHERN WISCONSIN.

(a) DEFINITION OF NORTHERN WISCONSIN.—In this section, the term "northern Wisconsin" means the counties of Douglas, Ashland, Bayfield, and Iron, Wisconsin.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of the Army may establish a pilot program to provide environmental assistance to non-Federal interests in northern Wisconsin.

(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and reconstruction assistance or water-related environmental infrastructure and resource protection and development projects in northern Wisconsin, including projects for wastewater treatment and related facilities, water supply and

related facilities, environmental restoration, and surface water resource protection and development.

(d) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or restructure protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project. The credit for the design work shall not exceed 6 percent of the local construction costs of the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this subsection, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and reductions toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of the total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2001, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, including recommendations concerning whether the program should be implemented on a national basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000. Such sums shall remain available until expended.

TITLE II—VIETNAM EDUCATION FOUNDATION ACT OF 2000

SEC. 201. SHORT TITLE.

This title may be cited as the "Vietnam Education Foundation Act of 2000".

SEC. 202. PURPOSES.

The purposes of this title are the following:

(1) To establish an international fellowship program under which—

(A) Vietnamese nationals can undertake graduate and post-graduate level studies in the sciences (natural, physical, and environmental), mathematics, medicine, and technology (including information technology); and

(B) United States citizens can teach in the fields specified in subparagraph (A) in appropriate Vietnamese institutions.

(2) To further the process of reconciliation between the United States and Vietnam and the building of a bilateral relationship serving the interests of both countries.

SEC. 203. DEFINITIONS.

In this title:

(1) BOARD.—The term "Board" means the Board of Directors of the Foundation.

(2) FOUNDATION.—The term "Foundation" means the Vietnam Education Foundation established in section 204.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) UNITED STATES-VIETNAM DEBT AGREEMENT.—The term "United States-Vietnam debt agreement" means the Agreement Between the Government of the United States of America and the Government of the Socialist Republic of Vietnam Regarding the Consolidation and Rescheduling of Certain Debts Owed to, Guaranteed by, or Insured by the United States Government and the Agency for International Development, dated April 7, 1997.

SEC. 204. ESTABLISHMENT.

There is established the Vietnam Education Foundation as an independent establishment of the executive branch under section 104 of title 5, United States Code.

SEC. 205. BOARD OF DIRECTORS.

(a) IN GENERAL.—The Foundation shall be subject to the supervision and direction of the Board of Directors, which shall consist of 13 members, as follows:

(1) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

(2) Two members of the Senate, appointed by the President pro tempore, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

(3) Secretary of State.

(4) Secretary of Education.

(5) Secretary of Treasury.

(6) Six members to be appointed by the President from among individuals in the nongovernmental sector who have academic excellence or experience in the fields of concentration specified in section 202(1)(A) or a general knowledge of Vietnam, not less than three of whom shall be drawn from academic life.

(b) ROTATION OF MEMBERSHIP.—(1) The term of office of each member appointed under subsection (a)(6) shall be 3 years, except that of the members initially appointed under that subsection, two shall serve for terms of 1 year, two shall serve for terms of 2 years, and two shall serve for terms of 3 years.

(2) A member of Congress appointed under subsection (a)(1) or (2) shall not serve as a member of the Board for more than a total of 6 years.

(c) CHAIR.—The Board shall elect one of the members appointed under subsection (a)(6) to serve as Chair.

(d) MEETINGS.—The Board shall meet upon the call of the Chair but not less frequently than twice each year. A majority of the voting members of the Board shall constitute a quorum.

(e) DUTIES.—The Board shall—

(1) select the individuals who will be eligible to serve as Fellows; and

(2) provide overall supervision and direction of the Foundation.

(f) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Board shall serve without compensation, and members who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

SEC. 206. FELLOWSHIP PROGRAM.

(a) AWARD OF FELLOWSHIPS.—

(1) IN GENERAL.—To carry out the purposes of this title, the Foundation shall award fellowships to—

(A) Vietnamese nationals to study at institutions of higher education in the United States at graduate and

post-graduate levels in the following fields: physical sciences, natural sciences, mathematics, environmental sciences, medicine, technology, and computer sciences; and

(B) United States citizens to teach in Vietnam in appropriate Vietnamese institutions in the fields of study described in subparagraph (A).

(2) SPECIAL EMPHASIS ON SCIENTIFIC AND TECHNICAL VOCABULARY IN ENGLISH.—Fellowships awarded under paragraph (1) may include funding for the study of scientific and technical vocabulary in English.

(b) CRITERIA FOR SELECTION.—Fellowships under this title shall be awarded to persons who meet the minimum criteria established by the Foundation, including the following:

(1) VIETNAMESE NATIONALS.—Vietnamese candidates for fellowships shall have basic English proficiency and must have the ability to meet the criteria for admission into graduate or post-graduate programs in United States institutions of higher learning.

(2) UNITED STATES CITIZEN TEACHERS.—American teaching candidates shall be highly competent in their fields and be experienced and proficient teachers.

(c) IMPLEMENTATION.—The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of fellowships awarded under this section.

(d) AUTHORITY TO AWARD FELLOWSHIPS ON A MATCHING BASIS.—The Foundation may require, as a condition of the availability of funds for the award of a fellowship under this title, that an institution of higher education make available funds for such fellowship on a matching basis.

(e) FELLOWSHIP CONDITIONS.—A person awarded a fellowship under this title may receive payments authorized under this title only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or teaching, as appropriate, and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(f) FUNDING.—

(1) FISCAL YEAR 2001.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foundation $5,000,000 for fiscal year 2001 to carry out the activities of the Foundation.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(2) FISCAL YEAR 2002 AND SUBSEQUENT FISCAL YEARS.—Effective October 1, 2001, the Foundation shall utilize funds transferred to the Foundation under section 207.

SEC. 207. VIETNAM DEBT REPAYMENT FUND.

(a) ESTABLISHMENT.—Notwithstanding any other provision of law, there is established in the Treasury a separate account which shall be known as the Vietnam Debt Repayment Fund (in this subsection referred to as the "Fund").

(b) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all payments (including interest payments) made

by the Socialist Republic of Vietnam under the United States-Vietnam debt agreement.

(c) AVAILABILITY OF THE FUNDS.—

(1) FISCAL YEAR LIMITATION.—Beginning with fiscal year 2002, and each subsequent fiscal year through fiscal year 2018, $5,000,000 of the amounts deposited into the Fund (or accrued interest) each fiscal year shall be available to the Foundation, without fiscal year limitation, under paragraph (2).

(2) DISBURSEMENT OF FUNDS.—The Secretary of the Treasury, at least on a quarterly basis, shall transfer to the Foundation amounts allotted to the Foundation under paragraph (1) for the purpose of carrying out its activities.

(3) TRANSFER OF EXCESS FUNDS TO MISCELLANEOUS RECEIPTS.—Beginning with fiscal year 2002, and each subsequent fiscal year through fiscal year 2018, the Secretary of the Treasury shall withdraw from the Fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in the Fund in excess of amounts made available to the Foundation under paragraph (1).

(d) ANNUAL REPORT.—The Board shall prepare and submit annually to Congress statements of financial condition of the Fund, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

SEC. 208. FOUNDATION PERSONNEL MATTERS.

(a) APPOINTMENT BY BOARD.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board without regard to the provisions of title 5, United States Code, or any regulation thereunder, governing appointment in the competitive service. The Executive Director shall be the Chief Executive Officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe. The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine voting members of the Board.

(b) PROFESSIONAL STAFF.—The Executive Director shall hire Foundation staff on the basis of professional and nonpartisan qualifications.

(c) EXPERTS AND CONSULTANTS.—The Executive Director may procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code to carry out the purposes of the Foundation.

(d) COMPENSATION.—The Board may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title V, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 209. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out this title, the Foundation may—

(1) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) accept and use the services of voluntary and noncompensated personnel;

(4) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of a majority of the members of the Board, without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(5) rent office space in the District of Columbia; and

(6) make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives an annual report of its operations under this title.

SEC. 210. TERMINATION.

(a) IN GENERAL.—The Foundation may not award any new fellowship, or extend any existing fellowship, after September 30, 2016.

(b) ABOLISHMENT.—Effective 120 days after the expiration of the last fellowship in effect under this title, the Foundation is abolished.

TITLE III—COLORADO UTE SETTLEMENT ACT AMENDMENTS OF 2000

SEC. 301. SHORT TITLE; FINDINGS; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "Colorado Ute Settlement Act Amendments of 2000".

(b) FINDINGS.—Congress makes the following findings:

(1) In order to provide for a full and final settlement of the claims of the Colorado Ute Indian Tribes on the Animas and La Plata Rivers, the Tribes, the State of Colorado, and certain of the non-Indian parties to the Agreement have proposed certain modifications to the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(2) The claims of the Colorado Ute Indian Tribes on all rivers in Colorado other than the Animas and La Plata Rivers have been settled in accordance with the provisions of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(3) The Indian and non-Indian communities of southwest Colorado and northwest New Mexico will be benefited by a settlement of the tribal claims on the Animas and La Plata Rivers that provides the Tribes with a firm water supply without taking water away from existing uses.

(4) The Agreement contemplated a specific timetable for the delivery of irrigation and municipal and industrial water

and other benefits to the Tribes from the Animas-La Plata Project, which timetable has not been met. The provision of irrigation water can not presently be satisfied under the current implementation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(5) In order to meet the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and in particular the various biological opinions issued by the Fish and Wildlife Service, the amendments made by this title are needed to provide for a significant reduction in the facilities and water supply contemplated under the Agreement.

(6) The substitute benefits provided to the Tribes under the amendments made by this title, including the waiver of capital costs and the provisions of funds for natural resource enhancement, result in a settlement that provides the Tribes with benefits that are equivalent to those that the Tribes would have received under the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(7) The requirement that the Secretary of the Interior comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other national environmental laws before implementing the proposed settlement will ensure that the satisfaction of the tribal water rights is accomplished in an environmentally responsible fashion.

(8) In considering the full range of alternatives for satisfying the water rights claims of the Southern Ute Indian Tribe and Ute Mountain Ute Indian Tribe, Congress has held numerous legislative hearings and deliberations, and reviewed the considerable record including the following documents:

(A) The Final EIS No. INT–FES–80–18, dated July 1, 1980.

(B) The Draft Supplement to the FES No. INT–DES–92–41, dated October 13, 1992.

(C) The Final Supplemental to the FES No. 96–23, dated April 26, 1996;

(D) The Draft Supplemental EIS, dated January 14, 2000.

(E) The Final Supplemental EIS, dated July 2000.

(F) The Record of Decision for the Settlement of the Colorado Ute Indian Waters, September 25, 2000.

(9) In the Record of Decision referred to in paragraph (8)(F), the Secretary determined that the preferred alternative could only proceed if Congress amended the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973) so as to satisfy the Tribal water rights claim through the construction of the features authorized by this title. The amendments to the Colorado Ute Indian Water Rights Settlement Act of 1988 set forth in this title will provide the Ute Tribes with substitute benefits equivalent to those that the Tribes would have received under the Colorado Ute Indian Water Rights Settlement Act of 1988, in a manner consistent with paragraph (8) and the Federal Government's trust obligation.

(10) Based upon paragraph (8), it is the intent of Congress to enact legislation that implements the Record of Decision referred to in paragraph (8)(F).

(c) DEFINITIONS.—In this title:

(1) AGREEMENT.—The term "Agreement" has the meaning given that term in section 3(1) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(2) ANIMAS-LA PLATA PROJECT.—The term "Animas-La Plata Project" has the meaning given that term in section 3(2) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973).

(3) DOLORES PROJECT.—The term "Dolores Project" has the meaning given that term in section 3(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2974).

(4) TRIBE; TRIBES.—The term "Tribe" or "Tribes" has the meaning given that term in section 3(6) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2974).

SEC. 302. AMENDMENTS TO SECTION 6 OF THE COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988.

Subsection (a) of section 6 of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2975) is amended to read as follows:

"(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL WATER.—

"(1) FACILITIES.—

"(A) IN GENERAL.—After the date of enactment of this subsection, but prior to January 1, 2005, or the date established in the Amended Final Decree described in section 18(c), the Secretary, in order to settle the outstanding claims of the Tribes on the Animas and La Plata Rivers, acting through the Bureau of Reclamation, is specifically authorized to—

"(i) complete construction of, and operate and maintain, a reservoir, a pumping plant, a reservoir inlet conduit, and appurtenant facilities with sufficient capacity to divert and store water from the Animas River to provide for an average annual depletion of 57,100 acre-feet of water to be used for a municipal and industrial water supply, which facilities shall—

"(I) be designed and operated in accordance with the hydrologic regime necessary for the recovery of the endangered fish of the San Juan River as determined by the San Juan River Recovery Implementation Program;

"(II) be operated in accordance with the Animas-La Plata Project Compact as approved by Congress in Public Law 90–537;

"(III) include an inactive pool of an appropriate size to be determined by the Secretary following the completion of required environmental compliance activities; and

"(IV) include those recreation facilities determined to be appropriate by agreement between the State of Colorado and the Secretary that shall address the payment of any of the costs of such facilities by the State of Colorado in addition to the costs described in paragraph (3); and

"(ii) deliver, through the use of the project components referred to in clause (i), municipal and industrial water allocations—

"(I) with an average annual depletion not to exceed 16,525 acre-feet of water, to the Southern Ute Indian Tribe for its present and future needs;

"(II) with an average annual depletion not to exceed 16,525 acre-feet of water, to the Ute Mountain Ute Indian Tribe for its present and future needs;

"(III) with an average annual depletion not to exceed 2,340 acre-feet of water, to the Navajo Nation for its present and future needs;

"(IV) with an average annual depletion not to exceed 10,400 acre-feet of water, to the San Juan Water Commission for its present and future needs;

"(V) with an average annual depletion of an amount not to exceed 2,600 acre-feet of water, to the Animas-La Plata Conservancy District for its present and future needs;

"(VI) with an average annual depletion of an amount not to exceed 5,230 acre-feet of water, to the State of Colorado for its present and future needs; and

"(VII) with an average annual depletion of an amount not to exceed 780 acre-feet of water, to the La Plata Conservancy District of New Mexico for its present and future needs.

"(B) APPLICABILITY OF OTHER FEDERAL LAW.—The responsibilities of the Secretary described in subparagraph (A) are subject to the requirements of Federal laws related to the protection of the environment and otherwise applicable to the construction of the proposed facilities, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Water Act (42 U.S.C. 7401 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). Nothing in this Act shall be construed to predetermine or otherwise affect the outcome of any analysis conducted by the Secretary or any other Federal official under applicable laws.

"(C) LIMITATION.—

"(i) IN GENERAL.—If constructed, the facilities described in subparagraph (A) shall constitute the Animas-La Plata Project. Construction of any other project features authorized by Public Law 90–537 shall not be commenced without further express authorization from Congress.

"(ii) CONTINGENCY IN APPLICATION.—If the facilities described in subparagraph (A) are not constructed and operated, clause (i) shall not take effect.

"(2) TRIBAL CONSTRUCTION COSTS.—Construction costs allocable to the facilities that are required to deliver the municipal and industrial water allocations described in subclauses (I), (II) and (III) of paragraph (1)(A)(ii) shall be nonreimbursable to the United States.

"(3) NONTRIBAL WATER CAPITAL OBLIGATIONS.—

"(A) IN GENERAL.—Under the provisions of section 9 of the Act of August 4, 1939 (43 U.S.C. 485h), the nontribal municipal and industrial water capital repayment obligations for the facilities described in paragraph (1)(A)(i) may be satisfied upon the payment in full of the nontribal water capital obligations prior to the initiation of construction. The amount of the obligations described in the preceding sentence shall be determined by agreement between the Secretary of the Interior and the entity responsible for such repayment as to the appropriate reimbursable share of the construction costs allocated to that entity's municipal water storage. Such repayment shall be consistent with Federal reclamation law, including the Colorado River Storage Project Act of 1956 (43 U.S.C. 620 et seq.). Such agreement shall take into account the fact that the construction of certain project facilities, including those facilities required to provide irrigation water supplies from the Animas-La Plata Project, is not authorized under paragraph (1)(A)(i) and no costs associated with the design or development of such facilities, including costs associated with environmental compliance, shall be allocable to the municipal and industrial users of the facilities authorized under such paragraph.

"(B) NONTRIBAL REPAYMENT OBLIGATION SUBJECT TO FINAL COST ALLOCATION.—The nontribal repayment obligation set forth in subparagraph (A) shall be subject to a final cost allocation by the Secretary upon project completion. In the event that the final cost allocation indicates that additional repayment is warranted based on the applicable entity's share of project water storage and determination of overall reimbursable cost, that entity may elect to enter into a new agreement to make the additional payment necessary to secure the full water supply identified in paragraph (1)(A)(ii). If the repayment entity elects not to enter into a new agreement, the portion of project storage relinquished by such election shall be available to the Secretary for allocation to other project purposes. Additional repayment shall only be warranted for reasonable and unforeseen costs associated with project construction as determined by the Secretary in consultation with the relevant repayment entities.

"(C) REPORT.—Not later than April 1, 2001, the Secretary shall report to Congress on the status of the cost-share agreements contemplated in subparagraph (A). In the event that no agreement is reached with either the Animas-La Plata Conservancy District or the State of Colorado for the water allocations set forth in subclauses (V) and (VI) of paragraph (1)(A)(ii), those allocations shall be reallocated equally to the Colorado Ute Tribes.

"(4) TRIBAL WATER ALLOCATIONS.—

"(A) IN GENERAL.—With respect to municipal and industrial water allocated to a Tribe from the Animas-La Plata Project or the Dolores Project, until that water is first used by a Tribe or used pursuant to a water use contract with the Tribe, the Secretary shall pay the annual operation, maintenance, and replacement costs allocable

to that municipal and industrial water allocation of the Tribe.

"(B) TREATMENT OF COSTS.—A Tribe shall not be required to reimburse the Secretary for the payment of any cost referred to in subparagraph (A).

"(5) REPAYMENT OF PRO RATA SHARE.—Upon a Tribe's first use of an increment of a municipal and industrial water allocation described in paragraph (4), or the Tribe's first use of such water pursuant to the terms of a water use contract—

"(A) repayment of that increment's pro rata share of those allocable construction costs for the Dolores Project shall be made by the Tribe; and

"(B) the Tribe shall bear a pro rata share of the allocable annual operation, maintenance, and replacement costs of the increment as referred to in paragraph (4).".

SEC. 303. MISCELLANEOUS.

The Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973) is amended by adding at the end the following:

"SEC. 15. NEW MEXICO AND NAVAJO NATION WATER MATTERS.

"(a) ASSIGNMENT OF WATER PERMIT.—Upon the request of the State Engineer of the State of New Mexico, the Secretary shall, as soon as practicable, in a manner consistent with applicable law, assign, without consideration, to the New Mexico Animas-La Plata Project beneficiaries or to the New Mexico Interstate Stream Commission in accordance with the request of the State Engineer, the Department of the Interior's interest in New Mexico State Engineer Permit Number 2883, dated May 1, 1956, in order to fulfill the New Mexico non-Navajo purposes of the Animas-La Plata Project, so long as the permit assignment does not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to the use of the water involved.

"(b) NAVAJO NATION MUNICIPAL PIPELINE.—The Secretary is specifically authorized to construct a water line to augment the existing system that conveys the municipal water supplies, in an amount not less than 4,680 acre-feet per year, to the Navajo Indian Reservation at or near Shiprock, New Mexico. The Secretary shall comply with all applicable environmental laws with respect to such water line. Construction costs allocated to the Navajo Nation for such water line shall be nonreimbursable to the United States.

"(c) PROTECTION OF NAVAJO WATER CLAIMS.—Nothing in this Act, including the permit assignment authorized by subsection (a), shall be construed to quantify or otherwise adversely affect the water rights and the claims of entitlement to water of the Navajo Nation.

"SEC. 16. RESOURCE FUNDS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $8,000,000 for each of fiscal years 2002 through 2006. Not later than 60 days after amounts are appropriated and available to the Secretary for a fiscal year under this paragraph, the Secretary shall make a payment to each of the Tribal Resource Funds established under subsection (b). Each such payment shall be equal to 50 percent of the amount appropriated for the fiscal year involved.

"(b) FUNDS.—The Secretary shall establish a—

"(1) Southern Ute Tribal Resource Fund; and
"(2) Ute Mountain Ute Tribal Resource Fund.

"(c) TRIBAL DEVELOPMENT.—

"(1) INVESTMENT.—The Secretary shall, in the absence of an approved tribal investment plan provided for under paragraph (2), invest the amount in each Tribal Resource Fund established under subsection (b) in accordance with the Act entitled, 'An Act to authorize the deposit and investment of Indian funds' approved June 24, 1938 (25 U.S.C. 162a). With the exception of the funds referred to in paragraph (3)(B)(i), the Secretary shall disburse, at the request of a Tribe, the principal and income in its Resource Fund, or any part thereof, in accordance with a resource acquisition and enhancement plan approved under paragraph (3).

"(2) INVESTMENT PLAN.—

"(A) IN GENERAL.—In lieu of the investment provided for in paragraph (1), a Tribe may submit a tribal investment plan applicable to all or part of the Tribe's Tribal Resource Fund, except with respect to the funds referred to in paragraph (3)(B)(i).

"(B) APPROVAL.—Not later than 60 days after the date on which an investment plan is submitted under subparagraph (A), the Secretary shall approve such investment plan if the Secretary finds that the plan is reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Resource Fund involved shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan, subject to subsection (d).

"(C) COMPLIANCE.—The Secretary may take such steps as the Secretary determines to be necessary to monitor the compliance of a Tribe with an investment plan approved under subparagraph (B). The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds.

"(D) ECONOMIC DEVELOPMENT PLAN.—The principal and income derived from tribal investments under an investment plan approved under subparagraph (B) shall be subject to the provisions of this section and shall be expended only in accordance with an economic development plan approved under paragraph (3)(B).

"(3) ECONOMIC DEVELOPMENT PLAN.—

"(A) IN GENERAL.—Each Tribe shall submit to the Secretary a resource acquisition and enhancement plan for all or any portion of its Tribal Resource Fund.

"(B) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under subparagraph (A), the Secretary shall approve such plan if it is consistent with the following requirements:

"(i) With respect to at least three-fourths of the funds appropriated pursuant to this section and consistent with the long-standing practice of the Tribes

and other local entities and communities to work together to use their respective water rights and resources for mutual benefit, at least three-fourths of the funds appropriated pursuant to this section shall be utilized to enhance, restore, and utilize the Tribes' natural resources in partnership with adjacent non-Indian communities or entities in the area.

"(ii) The plan must be reasonably related to the protection, acquisition, enhancement, or development of natural resources for the benefit of the Tribe and its members.

"(iii) Notwithstanding any other provision of law and in order to ensure that the Federal Government fulfills the objectives of the Record of Decision referred to in section 301(b)(8)(F) of the Colorado Ute Settlement Act Amendments of 2000 by requiring that the funds referred to in clause (i) are expended directly by employees of the Federal Government, the Secretary acting through the Bureau of Reclamation shall expend not less than one-third of the funds referred to in clause (i) for municipal or rural water development and not less than two-thirds of the funds referred to such clause for resource acquisition and enhancement.

"(C) MODIFICATION.—Subject to the provisions of this Act and the approval of the Secretary, each Tribe may modify a plan approved under subparagraph (B).

"(D) LIABILITY.—The United States shall not be directly or indirectly liable for any claim or cause of action arising from the approval of a plan under this paragraph, or from the use and expenditure by the Tribe of the principal or interest of the Funds.

"(d) LIMITATION ON PER CAPITA DISTRIBUTIONS.—No part of the principal contained in the Tribal Resource Fund, or of the income accruing to such funds, or the revenue from any water use contract, shall be distributed to any member of either Tribe on a per capita basis.

"(e) LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because the requirements of subsection (c) are not complied with or implemented.

"(f) LIMITATION ON DISBURSEMENT OF TRIBAL RESOURCE FUNDS.—Any funds appropriated under this section shall be placed into the Southern Ute Tribal Resource Fund and the Ute Mountain Ute Tribal Resource Fund in the Treasury of the United States but shall not be available for disbursement under this section until the final settlement of the tribal claims as provided in section 18. The Secretary of the Interior may, in the Secretary's sole discretion, authorize the disbursement of funds prior to the final settlement in the event that the Secretary determines that substantial portions of the settlement have been completed. In the event that the funds are not disbursed under the terms of this section by December 31, 2012, such funds shall be deposited in the general fund of the Treasury.

"SEC. 17. COLORADO UTE SETTLEMENT FUND.

"(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States a fund to be known as the 'Colorado Ute Settlement Fund'.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Colorado Ute Settlement Fund such funds as are necessary to complete the construction of the facilities described in sections 6(a)(1)(A) and 15(b) within 7 years of the date of enactment of this section. Such funds are authorized to be appropriated for each of the first 5 fiscal years beginning with the first full fiscal year following the date of enactment of this section.

"SEC. 18. FINAL SETTLEMENT.

"(a) IN GENERAL.—The construction of the facilities described in section 6(a)(1)(A), the allocation of the water supply from those facilities to the Tribes as described in that section, and the provision of funds to the Tribes in accordance with section 16 and the issuance of an amended final consent decree as contemplated in subsection (c) shall constitute final settlement of the tribal claims to water rights on the Animas and La Plata Rivers in the State of Colorado.

"(b) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the right of the Tribes to water rights on the streams and rivers described in the Agreement, other than the Animas and La Plata Rivers, to receive the amounts of water dedicated to tribal use under the Agreement, or to acquire water rights under the laws of the State of Colorado.

"(c) ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall file with the District Court, Water Division Number 7, of the State of Colorado, such instruments as may be necessary to request the court to amend the final consent decree to provide for the amendments made to this Act under the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000. The amended final consent decree shall specify terms and conditions to provide for an extension of the current January 1, 2005, deadline for the Tribes to commence litigation of their reserved rights claims on the Animas and La Plata Rivers.

"SEC. 19. STATUTORY CONSTRUCTION; TREATMENT OF CERTAIN FUNDS.

"(a) IN GENERAL.—Nothing in the amendments made by the Colorado Ute Settlement Act Amendments of 2000 shall be construed to affect the applicability of any provision of this Act.

"(b) TREATMENT OF UNCOMMITTED PORTION OF COST-SHARING OBLIGATION.—The uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in section 6(a)(3) shall be made available, upon the request of the State of Colorado, to the State of Colorado after the date on which payment is made of the amount specified in that section.".

TITLE IV

SEC. 401. DESIGNATION OF AMERICAN MUSEUM OF SCIENCE AND ENERGY.

(a) IN GENERAL.—The Museum—

(1) is designated as the "American Museum of Science and Energy"; and

(2) shall be the official museum of science and energy of the United States.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Museum is deemed to be a reference to the "American Museum of Science and Energy".

(c) PROPERTY OF THE UNITED STATES.—

(1) IN GENERAL.—The name "American Museum of Science and Energy" is declared the property of the United States.

(2) USE.—The Museum shall have the sole right throughout the United States and its possessions to have and use the name "American Museum of Science and Energy".

(3) EFFECT ON OTHER RIGHTS.—This subsection shall not be construed to conflict or interfere with established or vested rights.

SEC. 402. AUTHORITY.

To carry out the activities of the Museum, the Secretary may—

(1) accept and dispose of any gift, devise, or bequest of services or property, real or personal, that is—

(A) designated in a written document by the person making the gift, devise, or bequest as intended for the Museum; and

(B) determined by the Secretary to be suitable and beneficial for use by the Museum;

(2) operate a retail outlet on the premises of the Museum for the purpose of selling or distributing items (including mementos, food, educational materials, replicas, and literature) that are—

(A) relevant to the contents of the Museum; and

(B) informative, educational, and tasteful;

(3) collect reasonable fees where feasible and appropriate;

(4) exhibit, perform, display, and publish materials and information of or relating to the Museum in any media or place;

(5) consistent with guidelines approved by the Secretary, lease space on the premises of the Museum at reasonable rates and for uses consistent with such guidelines; and

(6) use the proceeds of activities authorized under this section to pay the costs of the Museum.

SEC. 403. MUSEUM VOLUNTEERS.

(a) AUTHORITY TO USE VOLUNTEERS.—The Secretary may recruit, train, and accept the services of individuals or entities as volunteers for services or activities related to the Museum.

(b) STATUS OF VOLUNTEERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), service by a volunteer under subsection (a) shall not be considered Federal employment.

(2) EXCEPTIONS.—

(A) FEDERAL TORT CLAIMS ACT.—For purposes of chapter 171 of title 28, United States Code, a volunteer under subsection (a) shall be treated as an employee of the Government (as defined in section 2671 of that title).

(B) COMPENSATION FOR WORK INJURIES.—For purposes of subchapter I of chapter 81 of title 5, United States

Code, a volunteer described in subsection (a) shall be treated as an employee (as defined in section 8101 of title 5, United States Code).

(c) COMPENSATION.—A volunteer under subsection (a) shall serve without pay, but may receive nominal awards and reimbursement for incidental expenses, including expenses for a uniform or transportation in furtherance of Museum activities.

SEC. 404. DEFINITIONS.

For purposes of this Act:

(1) MUSEUM.—The term "Museum" means the museum operated by the Secretary of Energy and located at 300 South Tulane Avenue in Oak Ridge, Tennessee.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy or a designated representative of the Secretary.

TITLE V—LOWER MISSISSIPPI RIVER REGION

SEC. 501. SHORT TITLE.

This title may be cited as the "Delta Regional Authority Act of 2000".

SEC. 502. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the lower Mississippi River region (referred to in this title as the "region"), though rich in natural and human resources, lags behind the rest of the United States in economic growth and prosperity;

(2) the region suffers from a greater proportion of measurable poverty and unemployment than any other region of the United States;

(3) the greatest hope for economic growth and revitalization in the region lies in the development of transportation infrastructure, creation of jobs, expansion of businesses, and development of entrepreneurial local economies;

(4) the economic progress of the region requires an adequate transportation and physical infrastructure, a skilled and trained workforce, and greater opportunities for enterprise development and entrepreneurship;

(5) a concerted and coordinated effort among Federal, State, and local agencies, the private sector, and nonprofit groups is needed if the region is to achieve its full potential for economic development;

(6) economic development planning on a regional or multicounty basis offers the best prospect for achieving the maximum benefit from public and private investments; and

(7) improving the economy of the region requires a special emphasis on areas of the region that are most economically distressed.

(b) PURPOSES.—The purposes of this title are—

(1) to promote and encourage the economic development of the region—

(A) to ensure that the communities and people in the region have the opportunity for economic development; and

(B) to ensure that the economy of the region reaches economic parity with that of the rest of the United States;

(2) to establish a formal framework for joint Federal-State collaboration in meeting and focusing national attention on the economic development needs of the region;

(3) to assist the region in obtaining the transportation and basic infrastructure, skills training, and opportunities for economic development that are essential for strong local economies;

(4) to foster coordination among all levels of government, the private sector, and nonprofit groups in crafting common regional strategies that will lead to broader economic growth;

(5) to strengthen efforts that emphasize regional approaches to economic development and planning;

(6) to encourage the participation of interested citizens, public officials, agencies, and others in developing and implementing local and regional plans for broad-based economic and community development; and

(7) to focus special attention on areas of the region that suffer from the greatest economic distress.

SEC. 503. DELTA REGIONAL AUTHORITY.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle F—Delta Regional Authority

"SEC. 382A. DEFINITIONS.

"In this subtitle:

"(1) AUTHORITY.—The term 'Authority' means the Delta Regional Authority established by section 382B.

"(2) REGION.—The term 'region' means the Lower Mississippi (as defined in section 4 of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460)).

"(3) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in—

"(A) acquiring or developing land;

"(B) constructing or equipping a highway, road, bridge, or facility; or

"(C) carrying out other economic development activities.

"SEC. 382B. DELTA REGIONAL AUTHORITY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the Delta Regional Authority.

"(2) COMPOSITION.—The Authority shall be composed of—

"(A) a Federal member, to be appointed by the President, with the advice and consent of the Senate; and

"(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority.

"(3) COCHAIRPERSONS.—The Authority shall be headed by—

"(A) the Federal member, who shall serve—

"(i) as the Federal cochairperson; and

"(ii) as a liaison between the Federal Government and the Authority; and

"(B) a State cochairperson, who—

"(i) shall be a Governor of a participating State in the region; and

"(ii) shall be elected by the State members for a term of not less than 1 year.

"(b) ALTERNATE MEMBERS.—

"(1) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be—

"(A) a resident of that State; and

"(B) appointed by the Governor of the State.

"(2) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal cochairperson.

"(3) QUORUM.—A State alternate shall not be counted toward the establishment of a quorum of the Authority in any instance in which a quorum of the State members is required to be present.

"(4) DELEGATION OF POWER.—No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c), and no voting right of any Authority member, shall be delegated to any person—

"(A) who is not an Authority member; or

"(B) who is not entitled to vote in Authority meetings.

"(c) VOTING.—

"(1) IN GENERAL.—A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.

"(2) QUORUM.—A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

"(A) a modification or revision of an Authority policy decision;

"(B) approval of a State or regional development plan; and

"(C) any allocation of funds among the States.

"(3) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals shall be—

"(A) a responsibility of the Authority; and

"(B) conducted in accordance with section 382I.

"(4) VOTING BY ALTERNATE MEMBERS.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State representative for which the alternate member is an alternate.

"(d) DUTIES.—The Authority shall—

"(1) develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, and local planning and development activities in the region;

"(2) not later than 220 days after the date of enactment of this subtitle, establish priorities in a development plan for the region (including 5-year regional outcome targets);

"(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

"(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation;

"(5) work with State and local agencies in developing appropriate model legislation;

"(6)(A) enhance the capacity of, and provide support for, local development districts in the region; or

"(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

"(7) encourage private investment in industrial, commercial, and other economic development projects in the region; and

"(8) cooperate with and assist State governments with economic development programs of participating States.

"(e) ADMINISTRATION.—In carrying out subsection (d), the Authority may—

"(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

"(2) authorize, through the Federal or State cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

"(3) request from any Federal, State, or local department or agency such information as may be available to or procurable by the department or agency that may be of use to the Authority in carrying out duties of the Authority;

"(4) adopt, amend, and repeal bylaws and rules governing the conduct of Authority business and the performance of Authority duties;

"(5) request the head of any Federal department or agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

"(6) request the head of any State department or agency or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

"(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

"(A) making arrangements or entering into contracts with any participating State government; or

"(B) otherwise providing retirement and other employee benefit coverage;

"(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

"(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out Authority duties, including any contracts, leases, or cooperative agreements with—

"(A) any department, agency, or instrumentality of the United States;

"(B) any State (including a political subdivision, agency, or instrumentality of the State); or

"(C) any person, firm, association, or corporation; and

"(10) establish and maintain a central office and field offices at such locations as the Authority may select.

"(f) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

"(1) cooperate with the Authority; and

"(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

"(g) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Administrative expenses of the Authority (except for the expenses of the Federal cochairperson, including expenses of the alternate and staff of the Federal cochairperson, which shall be paid solely by the Federal Government) shall be paid—

"(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses; and

"(B) by the States in the region participating in the Authority, in an amount equal to 50 percent of the administrative expenses.

"(2) STATE SHARE.—

"(A) IN GENERAL.—The share of administrative expenses of the Authority to be paid by each State shall be determined by the Authority.

"(B) NO FEDERAL PARTICIPATION.—The Federal cochairperson shall not participate or vote in any decision under subparagraph (A).

"(C) DELINQUENT STATES.—If a State is delinquent in payment of the State's share of administrative expenses of the Authority under this subsection—

"(i) no assistance under this subtitle shall be furnished to the State (including assistance to a political subdivision or a resident of the State); and

"(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

"(h) COMPENSATION.—

"(1) FEDERAL COCHAIRPERSON.—The Federal cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

"(2) ALTERNATE FEDERAL COCHAIRPERSON.—The alternate Federal cochairperson—

"(A) shall be compensated by the Federal Government at level V of the Executive Schedule described in paragraph (1); and

"(B) when not actively serving as an alternate for the Federal cochairperson, shall perform such functions and duties as are delegated by the Federal cochairperson.

"(3) STATE MEMBERS AND ALTERNATES.—

"(A) IN GENERAL.—A State shall compensate each member and alternate representing the State on the Authority at the rate established by law of the State.

"(B) NO ADDITIONAL COMPENSATION.—No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source

other than the State for services provided by the member or alternate to the Authority.

"(4) DETAILED EMPLOYEES.—

"(A) IN GENERAL.—No person detailed to serve the Authority under subsection (e)(6) shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

"(i) any source other than the State, local, or intergovernmental department or agency from which the person was detailed; or

"(ii) the Authority.

"(B) VIOLATION.—Any person that violates this paragraph shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

"(C) APPLICABLE LAW.—The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18, United States Code.

"(5) ADDITIONAL PERSONNEL.—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

"(ii) EXCEPTION.—Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

"(B) EXECUTIVE DIRECTOR.—The executive director shall be responsible for—

"(i) the carrying out of the administrative duties of the Authority;

"(ii) direction of the Authority staff; and

"(iii) such other duties as the Authority may assign.

"(C) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5)) shall be considered to be a Federal employee for any purpose.

"(i) CONFLICTS OF INTEREST.—

"(1) IN GENERAL.—Except as provided under paragraph (2), no State member, alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

"(A) the member, alternate, officer, or employee;

"(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

"(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment;

has a financial interest.

"(2) DISCLOSURE.—Paragraph (1) shall not apply if the State member, alternate, officer, or employee—

"(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

"(B) makes full disclosure of the financial interest; and

"(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, alternate, officer, or employee.

"(3) VIOLATION.—Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

"(j) VALIDITY OF CONTRACTS, LOANS, AND GRANTS.—The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4), subsection (i), or sections 202 through 209 of title 18, United States Code.

"SEC. 382C. ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.

"(a) IN GENERAL.—The Authority may approve grants to States and public and nonprofit entities for projects, approved in accordance with section 382I—

"(1) to develop the transportation infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may only be made to a State or local government);

"(2) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

"(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

"(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

"(5) to otherwise achieve the purposes of this subtitle.

"(b) FUNDING.—

"(1) IN GENERAL.—Funds for grants under subsection (a) may be provided—

"(A) entirely from appropriations to carry out this section;

"(B) in combination with funds available under another Federal or Federal grant program; or

"(C) from any other source.

"(2) PRIORITY OF FUNDING.—To best build the foundations for long-term economic development and to complement other Federal and State resources in the region, Federal funds available under this subtitle shall be focused on the activities in the following order or priority:

"(A) Basic public infrastructure in distressed counties and isolated areas of distress.

"(B) Transportation infrastructure for the purpose of facilitating economic development in the region.

"(C) Business development, with emphasis on entrepreneurship.

"(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

"(3) FEDERAL SHARE IN GRANT PROGRAMS.—Notwithstanding any provision of law limiting the Federal share in any grant program, funds appropriated to carry out this section may be used to increase a Federal share in a grant program, as the Authority determines appropriate.

"SEC. 382D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

"(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

"(1) they lack the economic resources to meet the required matching share; or

"(2) there are insufficient funds available under the applicable Federal grant law authorizing the program to meet pressing needs of the region.

"(b) FEDERAL GRANT PROGRAM FUNDING.—In accordance with subsection (c), the Federal cochairperson may use amounts made available to carry out this subtitle, without regard to any limitations on areas eligible for assistance or authorizations for appropriation under any other Act, to fund all or any portion of the basic Federal contribution to a project or activity under a Federal grant program in the region in an amount that is above the fixed maximum portion of the cost of the project otherwise authorized by applicable law, but not to exceed 90 percent of the costs of the project (except as provided in section 382F(b)).

"(c) CERTIFICATION.—

"(1) IN GENERAL.—In the case of any program or project for which all or any portion of the basic Federal contribution to the project under a Federal grant program is proposed to be made under this section, no Federal contribution shall be made until the Federal official administering the Federal law authorizing the contribution certifies that the program or project—

"(A) meets the applicable requirements of the applicable Federal grant law; and

"(B) could be approved for Federal contribution under the law if funds were available under the law for the program or project.

"(2) CERTIFICATION BY AUTHORITY.—

"(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this subtitle in accordance with section 382I—

"(i) shall be controlling; and

"(ii) shall be accepted by the Federal agencies.

"(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—Any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of any Federal grant program shall be accepted by the Federal cochairperson with respect to a supplemental grant for any project under the program.

"SEC. 382E. LOCAL DEVELOPMENT DISTRICTS; CERTIFICATION AND ADMINISTRATIVE EXPENSES.

"(a) DEFINITION OF LOCAL DEVELOPMENT DISTRICT.—In this section, the term 'local development district' means an entity that—

"(1) is—

"(A) a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

"(B) where an entity described in subparagraph (A) does not exist—

"(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

"(ii) governed by a policy board with at least a simple majority of members consisting of elected officials or employees of a general purpose unit of local government who have been appointed to represent the government;

"(iii) certified to the Authority as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region—

"(I) by the Governor of each State in which the entity is located; or

"(II) by the State officer designated by the appropriate State law to make the certification; and

"(iv)(I) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

"(II) a nonprofit agency or instrumentality of a State or local government;

"(III) a public organization established before the date of enactment of this subtitle under State law for creation of multi-jurisdictional, area-wide planning organizations; or

"(IV) a nonprofit association or combination of bodies, agencies, and instrumentalities described in subclauses (I) through (III); and

"(2) has not, as certified by the Federal cochairperson—

"(A) inappropriately used Federal grant funds from any Federal source; or

"(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(b) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

"(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section.

"(2) CONDITIONS FOR GRANTS.—

"(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

"(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded to a State agency certified as a local development district for a period greater than 3 years.

"(C) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

"(1) operate as a lead organization serving multicounty areas in the region at the local level; and

"(2) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens that—

"(A) are involved in multijurisdictional planning;

"(B) provide technical assistance to local jurisdictions and potential grantees; and

"(C) provide leadership and civic development assistance.

"SEC. 382F. DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.

"(a) DESIGNATIONS.—Not later than 90 days after the date of enactment of this subtitle, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

"(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty or unemployment;

"(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

"(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty or unemployment.

"(b) DISTRESSED COUNTIES.—

"(1) IN GENERAL.—The Authority shall allocate at least 75 percent of the appropriations made available under section 382M for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

"(2) FUNDING LIMITATIONS.—The funding limitations under section 382D(b) shall not apply to a project providing transportation or basic public services to residents of one or more distressed counties or isolated areas of distress in the region.

"(c) NONDISTRESSED COUNTIES.—

"(1) IN GENERAL.—Except as provided in this subsection, no funds shall be provided under this subtitle for a project located in a county designated as a nondistressed county under subsection (a)(2).

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 382E(b).

"(B) MULTICOUNTY PROJECTS.—The Authority may waive the application of the funding prohibition under paragraph (1) to—

"(i) a multicounty project that includes participation by a nondistressed county; or

"(ii) any other type of project;

if the Authority determines that the project could bring significant benefits to areas of the region outside a nondistressed county.

"(C) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

"(i) by the most recent Federal data available; or

"(ii) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

"(d) TRANSPORTATION AND BASIC PUBLIC INFRASTRUCTURE.—The Authority shall allocate at least 50 percent of any funds made available under section 382M for transportation and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 382C(a).

"SEC. 382G. DEVELOPMENT PLANNING PROCESS.

"(a) STATE DEVELOPMENT PLAN.—In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

"(b) CONTENT OF PLAN.—A State development plan submitted under subsection (a) shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 382B(d)(2).

"(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

"(1) consult with—

"(A) local development districts; and

"(B) local units of government; and

"(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

"(d) PUBLIC PARTICIPATION.—

"(1) IN GENERAL.—The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

"(2) REGULATIONS.—The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

"SEC. 382H. PROGRAM DEVELOPMENT CRITERIA.

"(a) IN GENERAL.—In considering programs and projects to be provided assistance under this subtitle, and in establishing a priority ranking of the requests for assistance provided by the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

"(1) the relationship of the project or class of projects to overall regional development;

"(2) the per capita income and poverty and unemployment rates in an area;

"(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

"(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

"(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area served by the project; and

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

"(b) NO RELOCATION ASSISTANCE.—No financial assistance authorized by this subtitle shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this title to attract businesses from outside the region to the region.

"(c) REDUCTION OF FUNDS.—Funds may be provided for a program or project in a State under this subtitle only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subtitle.

"SEC. 382I. APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.

"(a) IN GENERAL.—A State or regional development plan or any multistate subregional plan that is proposed for development under this subtitle shall be reviewed by the Authority.

"(b) EVALUATION BY STATE MEMBER.—An application for a grant or any other assistance for a project under this subtitle shall be

made through and evaluated for approval by the State member of the Authority representing the applicant.

"(c) CERTIFICATION.—An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

"(1) describes ways in which the project complies with any applicable State development plan;

"(2) meets applicable criteria under section 382H;

"(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

"(4) otherwise meets the requirements of this subtitle.

"(d) VOTES FOR DECISIONS.—On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 382B(c) shall be required for approval of the application.

"SEC. 382J. CONSENT OF STATES.

"Nothing in this subtitle requires any State to engage in or accept any program under this subtitle without the consent of the State.

"SEC. 382K. RECORDS.

"(a) RECORDS OF THE AUTHORITY.—

"(1) IN GENERAL.—The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

"(2) AVAILABILITY.—All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

"(b) RECORDS OF RECIPIENTS OF FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—A recipient of Federal funds under this subtitle shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report on the transactions and activities to the Authority.

"(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

"(c) ANNUAL AUDIT.—The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.

"SEC. 382L. ANNUAL REPORT.

"Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subtitle.

"SEC. 382M. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to the Authority to carry out this subtitle $30,000,000 for each of fiscal years 2001 through 2002, to remain available until expended.

"(b) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount appropriated under subsection (a) for a fiscal year shall be used for administrative expenses of the Authority.

"SEC. 382N. TERMINATION OF AUTHORITY.

"This subtitle and the authority provided under this subtitle expire on October 1, 2002.".

SEC. 504. AREA COVERED BY LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION.

(a) IN GENERAL.—Section 4(2)(D) of the Delta Development Act (42 U.S.C. 3121 note; 102 Stat. 2246) is amended by inserting "Natchitoches," after "Winn,".

(b) CONFORMING AMENDMENT.—The matter under the heading "SALARIES AND EXPENSES" under the heading "FARMERS HOME ADMINISTRATION" in title II of Public Law 100–460 (102 Stat. 2246) is amended in the fourth proviso by striking "carry out" and all that follows through "bills are hereby" and inserting "carry out S. 2836, the Delta Development Act, as introduced in the Senate on September 27, 1988, and that bill is".

TITLE VI—DAKOTA WATER RESOURCES ACT OF 2000

SEC. 601. SHORT TITLE.

This title may be cited as the "Dakota Water Resources Act of 2000".

SEC. 602. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89–108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "of" and inserting "within";

(B) in paragraph (5), by striking "more timely" and inserting "appropriate"; and

(C) in paragraph (7), by striking "federally-assisted water resource development project providing irrigation for 130,940 acres of land" and inserting "multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows";

(2) in subsection (b)—

(A) by inserting ", jointly with the State of North Dakota," after "construct";

(B) by striking "the irrigation of 130,940 acres" and inserting "irrigation";

(C) by striking "fish and wildlife conservation" and inserting "fish, wildlife, and other natural resource conservation";

(D) by inserting "augmented stream flows, ground water recharge," after "flood control,"; and

(E) by inserting "(as modified by the Dakota Water Resources Act of 2000)" before the period at the end;

(3) in subsection (e), by striking "terminated" and all that follows and inserting "terminated."; and

(4) by striking subsections (f) and (g) and inserting the following:

"(f) COSTS.—

"(1) ESTIMATE.—The Secretary shall estimate—

"(A) the actual construction costs of the facilities (including mitigation facilities) in existence as of the date of enactment of the Dakota Water Resources Act of 2000; and

"(B) the annual operation, maintenance, and replacement costs associated with the used and unused capacity of the features in existence as of that date.

"(2) REPAYMENT CONTRACT.—An appropriate repayment contract shall be negotiated that provides for the making of a payment for each payment period in an amount that is commensurate with the percentage of the total capacity of the project that is in actual use during the payment period.

"(3) OPERATION AND MAINTENANCE COSTS.—Except as otherwise provided in this Act or Reclamation Law—

"(A) The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share of unit facilities in existence on the date of enactment of the Dakota Water Resources Act of 2000 attributable to the capacity of the facilities (including mitigation facilities) that remain unused;

"(B) The State of North Dakota shall be responsible for costs of operation and maintenance of the proportionate share of existing unit facilities that are used and shall be responsible for the full costs of operation and maintenance of any facility constructed after the date of enactment of the Dakota Water Resources Act of 2000; and

"(C) The State of North Dakota shall be responsible for the costs of providing energy to authorized unit facilities.

"(g) AGREEMENT BETWEEN THE SECRETARY AND THE STATE.—The Secretary shall enter into one or more agreements with the State of North Dakota to carry out this Act, including operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State.

"(h) BOUNDARY WATERS TREATY OF 1909.—

"(1) DELIVERY OF WATER INTO THE HUDSON BAY BASIN.—Prior to construction of any water systems authorized under this Act to deliver Missouri River water into the Hudson Bay basin, the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, must determine that adequate treatment can be provided to meet the requirements of the Treaty between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington, January 11, 1909 (26 Stat. 2448; TS 548) (commonly known as the Boundary Waters Treaty of 1909).

"(2) COSTS.—All costs of construction, operation, maintenance, and replacement of water treatment and related facilities authorized by this Act and attributable to meeting the requirements of the treaty referred to in paragraph (1) shall be nonreimbursable.".

SEC. 603. FISH AND WILDLIFE.

Section 2 of Public Law 89–108 (79 Stat. 433; 100 Stat. 419) is amended—

(1) by striking subsections (b), (c), and (d) and inserting the following:

"(b) FISH AND WILDLIFE COSTS.—All fish and wildlife enhancement costs incurred in connection with waterfowl refuges, waterfowl production areas, and wildlife conservation areas proposed for Federal or State administration shall be nonreimbursable.

"(c) RECREATION AREAS.—

"(1) COSTS.—If non-Federal public bodies continue to agree to administer land and water areas approved for recreation and agree to bear not less than 50 percent of the separable costs of the unit allocated to recreation and attributable to those areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be nonreimbursable.

"(2) APPROVAL.—The recreation areas shall be approved by the Secretary in consultation and coordination with the State of North Dakota.

"(d) NON-FEDERAL SHARE.—The non-Federal share of the separable capital costs of the unit allocated to recreation shall be borne by non-Federal interests, using the following methods, as the Secretary may determine to be appropriate:

"(1) Services in kind.

"(2) Payment, or provision of lands, interests therein, or facilities for the unit.

"(3) Repayment, with interest, within 50 years of first use of unit recreation facilities.";

(2) in subsection (e)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting "(1)" after "(e)";

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the first sentence—

(I) by striking "within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement" and inserting "to administer for recreation"; and

(II) by striking "which are not included within Federal waterfowl refuges and waterfowl production areas"; and

(ii) in the second sentence, by striking "or fish and wildlife enhancement"; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking ", within ten years after initial operation of the unit,"; and

(ii) by striking "paragraph (1) of this subsection" and inserting "paragraph (2)";

(3) in subsection (f), by striking "and fish and wildlife enhancement"; and

(4) in subsection (j)—

(A) in paragraph (1), by striking "prior to the completion of construction of Lonetree Dam and Reservoir"; and

(B) by adding at the end the following:

"(4) TAAYER RESERVOIR.—Taayer Reservoir is deauthorized as a project feature. The Secretary, acting through the Commissioner of Reclamation, shall acquire (including acquisition through donation or exchange) up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary shall acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary shall provide for appropriate visitor access and control at the refuge.

"(5) DEAUTHORIZATION OF LONETREE DAM AND RESERVOIR.—The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site as a wildlife conservation area. The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the wildlife conservation area as an enhancement feature, the costs of which shall be paid by the Secretary.".

SEC. 604. INTEREST CALCULATION.

Section 4 of Public Law 89–108 (100 Stat. 435) is amended by adding at the end the following: "Interest during construction shall be calculated only until such date as the Secretary declares any particular feature to be substantially complete, regardless of whether the feature is placed into service.".

SEC. 605. IRRIGATION FACILITIES.

Section 5 of Public Law 89–108 (100 Stat. 419) is amended—

(1) by striking "SEC. 5. (a)(1)" and all that follows through subsection (c) and inserting the following:

"SEC. 5. IRRIGATION FACILITIES.

"(a) IN GENERAL.—

"(1) AUTHORIZED DEVELOPMENT.—In addition to the 5,000-acre Oakes Test Area in existence on the date of enactment of the Dakota Water Resources Act of 2000, the Secretary may develop irrigation in—

"(A) the Turtle Lake service area (13,700 acres);

"(B) the McClusky Canal service area (10,000 acres); and

"(C) if the investment costs are fully reimbursed without aid to irrigation from the Pick-Sloan Missouri Basin Program, the New Rockford Canal service area (1,200 acres).

"(2) DEVELOPMENT NOT AUTHORIZED.—None of the irrigation authorized by this section may be developed in the Hudson Bay/Devils Lake Basin.

"(3) NO EXCESS DEVELOPMENT.—The Secretary shall not develop irrigation in the service areas described in paragraph (1) in excess of the acreage specified in that paragraph, except that the Secretary shall develop up to 28,000 acres of irrigation in other areas of North Dakota (such as the Elk/Charbonneau, Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer

areas) that are not located in the Hudson Bay/Devils Lake drainage basin or James River drainage basin.

"(4) PUMPING POWER.—Irrigation development authorized by this section shall be considered authorized units of the Pick-Sloan Missouri Basin Program and eligible to receive project pumping power.

"(5) PRINCIPAL SUPPLY WORKS.—The Secretary shall maintain the Snake Creek Pumping Plant, New Rockford Canal, and McClusky Canal features of the principal supply works. Subject to the provisions of section (8) of this Act, the Secretary shall select a preferred alternative to implement the Dakota Water Resources Act of 2000. In making this selection, one of the alternatives the Secretary shall consider is whether to connect the principal supply works in existence on the date of enactment.";

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking "(a)(1)" and inserting "(a)";

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking "Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)" and inserting "Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary,"; and

(5) by adding at the end the following:

"(e) IRRIGATION REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall investigate and prepare a detailed report on the undesignated 28,000 acres in subsection (a)(3) as to costs and benefits for any irrigation units to be developed under Reclamation law.

"(2) FINDING.—The report shall include a finding on the economic, financial and engineering feasibility of the proposed irrigation unit, but shall be limited to the undesignated 28,000 acres.

"(3) AUTHORIZATION.—If the Secretary finds that the proposed construction is feasible, such irrigation units are authorized without further Act of Congress.

"(4) DOCUMENTATION.—No expenditure for the construction of facilities authorized under this section shall be made until after the Secretary, in cooperation with the State of North Dakota, has prepared the appropriate documentation in accordance with section 1 and pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and indirect impacts of implementing the report.".

SEC. 606. POWER.

Section 6 of Public Law 89–108 (79 Stat. 435; 100 Stat. 421) is amended—

(1) in subsection (b)—

(A) by striking "Notwithstanding the provisions of" and inserting "Pursuant to the provisions of"; and

(B) by striking "revenues," and all that follows and inserting "revenues."; and

(2) by striking subsection (c) and inserting the following:

"(c) NO INCREASE IN RATES OR EFFECT ON REPAYMENT METHODOLOGY.—In accordance with the last sentence of section 302(a)(3)

of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)), section 1(e) shall not result in any reallocation of project costs and shall not result in increased rates to Pick-Sloan Missouri Basin Program customers. Nothing in the Dakota Water Resources Act of 2000 alters or affects in any way the repayment methodology in effect as of the date of enactment of that Act for other features of the Pick-Sloan Missouri Basin Program.".

SEC. 607. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Section 7 of Public Law 89–108 (100 Stat. 422) is amended—

(1) in subsection (a)(3)—

(A) in the second sentence—

(i) by striking "The non-Federal share" and inserting "Unless otherwise provided in this Act, the non-Federal share";

(ii) by striking "each water system" and inserting "water systems";

(iii) by inserting after the second sentence the following: "The State may use the Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water systems. The State shall use the proceeds of repaid loans for municipal, rural, and industrial water systems. Proceeds from loan repayments and any interest thereon shall be treated as Federal funds."; and

(iv) by striking the last sentence and inserting the following: "The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State of North Dakota shall be eligible for funding under the terms of this section. Funding provided under this section for the Red River Valley Water Supply Project shall be in addition to funding for that project under section 10(a)(1)(B). The amount of non-Federal contributions made after May 12, 1986, that exceeds the 25 percent requirement shall be credited to the State for future use in municipal, rural, and industrial projects under this section."; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

"(b) WATER CONSERVATION PROGRAM.—The State of North Dakota may use funds provided under subsections (a) and (b)(1)(A) of section 10 to develop and implement a water conservation program. The Secretary and the State shall jointly establish water conservation goals to meet the purposes of the State program and to improve the availability of water supplies to meet the purposes of this Act. If the State achieves the established water conservation goals, the non-Federal cost share for future projects under subsection (a)(3) shall be reduced to 24.5 percent.

"(c) NONREIMBURSABILITY OF COSTS.—With respect to the Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in North Dakota, the costs of the features constructed on the Missouri River by the Secretary of the Army before the date of enactment of the Dakota Water Resources Act of 2000 shall be nonreimbursable.

"(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL WATER SUPPLY.—The Secretary shall construct, operate, and maintain such municipal, rural, and industrial water systems as the Secretary determines to be necessary to meet the economic, public health, and environmental needs of the Fort Berthold, Standing Rock, Turtle Mountain (including the Trenton Indian Service Area), and Fort Totten Indian Reservations and adjacent areas.".

SEC. 608. SPECIFIC FEATURES.

(a) SYKESTON CANAL.—Sykeston Canal is hereby deauthorized.

(b) IN GENERAL.—Public Law 89–108 (100 Stat. 423) is amended by striking section 8 and inserting the following:

"SEC. 8. SPECIFIC FEATURES.

"(a) RED RIVER VALLEY WATER SUPPLY PROJECT.—

"(1) IN GENERAL.—Subject to the requirements of this section, the Secretary shall construct a feature or features to provide water to the Sheyenne River water supply and release facility or such other feature or features as are selected under subsection (d).

"(2) DESIGN AND CONSTRUCTION.—The feature or features shall be designed and constructed to meet only the following water supply requirements as identified in the report prepared pursuant to subsection (b) of this section: Municipal, rural, and industrial water supply needs; ground water recharge; and streamflow augmentation.

"(3) COMMENCEMENT OF CONSTRUCTION.—(A) If the Secretary selects a project feature under this section that would provide water from the Missouri River or its tributaries to the Sheyenne River water supply and release facility or from the Missouri River or its tributaries to such other conveyance facility as the Secretary selects under this section, no later than 90 days after the completion of the final environmental impact statement, the Secretary shall transmit to Congress a comprehensive report which provides—

"(i) a detailed description of the proposed project feature;

"(ii) a summary of major issues addressed in the environmental impact statement;

"(iii) likely effects, if any, on other States bordering the Missouri River and on the State of Minnesota; and

"(iv) a description of how the project feature complies with the requirements of section 1(h)(1) of this Act (relating to the Boundary Waters Treaty of 1909).

"(B) No project feature or features that would provide water from the Missouri River or its tributaries to the Sheyenne River water supply and release facility or from the Missouri River or its tributaries to such other conveyance facility as the Secretary selects under this section shall be constructed unless such feature is specifically authorized by an Act of Congress approved subsequent to the Secretary's transmittal of the report required in subparagraph (A). If, after complying with subsections (b) through (d) of this section, the Secretary selects a feature or features using only in-basin sources of water to meet the water needs of the Red River Valley identified in subsection (b), such features are authorized without further

Act of Congress. The Act of Congress referred to in this subparagraph must be an authorization bill, and shall not be a bill making appropriations.

"(C) The Secretary may not commence construction on the feature until a master repayment contract or water service agreement consistent with this Act between the Secretary and the appropriate non-Federal entity has been executed.

"(b) REPORT ON RED RIVER VALLEY WATER NEEDS AND OPTIONS.—

"(1) IN GENERAL.—The Secretary of the Interior shall conduct a comprehensive study of the water quality and quantity needs of the Red River Valley in North Dakota and possible options for meeting those needs.

"(2) NEEDS.—The needs addressed in the report shall include such needs as—

"(A) municipal, rural, and industrial water supplies;

"(B) water quality;

"(C) aquatic environment;

"(D) recreation; and

"(E) water conservation measures.

"(3) PROCESS.—In conducting the study, the Secretary through an open and public process shall solicit input from gubernatorial designees from States that may be affected by possible options to meet such needs as well as designees from other Federal agencies with relevant expertise. For any option that includes an out-of-basin solution, the Secretary shall consider the effect of the option on other States that may be affected by such option, as well as other appropriate considerations. Upon completion, a draft of the study shall be provided by the Secretary to such States and Federal agencies. Such States and agencies shall be given not less than 120 days to review and comment on the study method, findings and conclusions leading to any alternative that may have an impact on such States or on resources subject to such Federal agencies' jurisdiction. The Secretary shall receive and take into consideration any such comments and produce a final report and transmit the final report to Congress.

"(4) LIMITATION.—No design or construction of any feature or features that facilitate an out-of-basin transfer from the Missouri River drainage basin shall be authorized under the provisions of this subsection.

"(c) ENVIRONMENTAL IMPACT STATEMENT.—

"(1) IN GENERAL.—Nothing in this section shall be construed to supersede any requirements under the National Environmental Policy Act or the Administrative Procedures Act.

"(2) DRAFT.—

"(A) DEADLINE.—Pursuant to an agreement between the Secretary and State of North Dakota as authorized under section 1(g), not later than 1 year after the date of enactment of the Dakota Water Resources Act of 2000, the Secretary and the State of North Dakota shall jointly prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including

the delivery of Missouri River water to the Red River Valley.

"(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete the draft environmental impact statement within 1 year after the date of enactment of the Dakota Water Resources Act of 2000, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

"(3) FINAL.—

"(A) DEADLINE.—Not later than 1 year after filing the draft environmental impact statement, a final environmental impact statement shall be prepared and published.

"(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete a final environmental impact statement within 1 year of the completion of the draft environmental impact statement, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

"(d) PROCESS FOR SELECTION.—

"(1) IN GENERAL.—After reviewing the final report required by subsection (b)(1) and complying with subsection (c), the Secretary, in consultation and coordination with the State of North Dakota in coordination with affected local communities, shall select one or more project features described in subsection (a) that will meet the comprehensive water quality and quantity needs of the Red River Valley. The Secretary's selection of an alternative shall be subject to judicial review.

"(2) AGREEMENTS.—If the Secretary selects an option under paragraph (1) that uses only in-basin sources of water, not later than 180 days after the record of decision has been executed, the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features selected. If the Secretary selects an option under paragraph (1) that would require a further act of Congress under the provisions of subsection (a), not later than 180 days after the date of enactment of legislation required under subsection (a) the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features authorized by that legislation.

"(e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES.—The Secretary shall construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water or any other amount determined in the reports under this section, for the cities of Fargo and Grand Forks and surrounding communities, or such other feature or features as may be selected under subsection (d).

"(f) DEVILS LAKE.—No funds authorized under this Act may be used to carry out the portion of the feasibility study of the Devils Lake basin, North Dakota, authorized under the Energy and Water Development Appropriations Act of 1993 (Public Law 102–377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility

or carry out any activity that would permit the transfer of water from the Missouri River drainage basin into Devils Lake, North Dakota.".

SEC. 609. OAKES TEST AREA TITLE TRANSFER.

Public Law 89–108 (100 Stat. 423) is amended by striking section 9 and inserting the following:

"SEC. 9. OAKES TEST AREA TITLE TRANSFER.

"(a) IN GENERAL.—Not later than 2 years after execution of a record of decision under section 8(d) on whether to use the New Rockford Canal as a means of delivering water to the Red River Basin as described in section 8, the Secretary shall enter into an agreement with the State of North Dakota, or its designee, to convey title and all or any rights, interests, and obligations of the United States in and to the Oakes Test Area as constructed and operated under Public Law 99–294 (100 Stat. 418) under such terms and conditions as the Secretary believes would fully protect the public interest.

"(b) TERMS AND CONDITIONS.—The agreement shall define the terms and conditions of the transfer of the facilities, lands, mineral estate, easements, rights-of-way and water rights including the avoidance of costs that the Federal Government would otherwise incur in the case of a failure to agree under subsection (d).

"(c) COMPLIANCE.—The action of the Secretary under this section shall comply with all applicable requirements of Federal, State, and local law.

"(d) FAILURE TO AGREE.—If an agreement is not reached within the time limit specified in subsection (a), the Secretary shall dispose of the Oakes Test Area facilities under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).".

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of Public Law 89–108 (100 Stat. 424; 106 Stat. 4669, 4739) is amended—

(1) in subsection (a)—

(A) by striking "(a)(1) There are authorized" and inserting the following:

"(a) WATER DISTRIBUTION FEATURES.—

"(1) IN GENERAL.—

"(A) MAIN STEM SUPPLY WORKS.—There is authorized";

(B) in paragraph (1)—

(i) in the first sentence, by striking "$270,395,000 for carrying out the provisions of section 5(a) through 5(c) and section 8(a)(1) of this Act" and inserting "$164,000,000 to carry out section 5(a)";

(ii) by inserting after subparagraph (A) (as designated by clause (i)) the following:

"(B) RED RIVER VALLEY WATER SUPPLY PROJECT.—There is authorized to be appropriated to carry out section 8(a)(1) $200,000,000."; and

(iii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There is" and inserting the following:

"(2) INDIAN IRRIGATION.—

"(A) IN GENERAL.—There is";

(ii) by striking "for carrying out section 5(e) of this Act" and inserting "to carry out section 5(c)"; and

(iii) by striking "Such sums" and inserting the following:

"(B) AVAILABILITY.—Such sums";

(2) in subsection (b)—

(A) by striking "(b)(1) There is" and inserting the following:

"(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY.—

"(1) STATEWIDE.—

"(A) INITIAL AMOUNT.—There is";

(B) in paragraph (1)—

(i) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(a) $200,000,000."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There are authorized to be appropriated $61,000,000" and all that follows through "Act." and inserting the following:

"(2) INDIAN MUNICIPAL, RURAL, AND INDUSTRIAL AND OTHER DELIVERY FEATURES.—

"(A) INITIAL AMOUNT.—There is authorized to be appropriated—

"(i) to carry out section 8(a)(1), $40,500,000; and

"(ii) to carry out section 7(d), $20,500,000.";

(ii) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—

"(i) IN GENERAL.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(d) $200,000,000.

"(ii) ALLOCATION.—The amount under clause (i) shall be allocated as follows:

"(I) $30,000,000 to the Fort Totten Indian Reservation.

"(II) $70,000,000 to the Fort Berthold Indian Reservation.

"(IV) $80,000,000 to the Standing Rock Indian Reservation.

"(V) $20,000,000 to the Turtle Mountain Indian Reservation."; and

(iii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums";

(3) in subsection (c)—

(A) by striking "(c) There is" and inserting the following:

"(c) RESOURCES TRUST AND OTHER PROVISIONS.—

"(1) INITIAL AMOUNT.—There is"; and

(B) by striking the second and third sentences and inserting the following:

"(2) ADDITIONAL AMOUNT.—In addition to amount under paragraph (1), there are authorized to be appropriated—

"(A) $6,500,000 to carry out recreational projects; and
"(B) an additional $25,000,000 to carry out section 11;

to remain available until expended.

"(3) RECREATIONAL PROJECTS.—Of the funds authorized under paragraph (2) for recreational projects, up to $1,500,000 may be used to fund a wetland interpretive center in the State of North Dakota.

"(4) OPERATION AND MAINTENANCE.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary for operation and maintenance of the unit (including the mitigation and enhancement features).

"(B) AUTHORIZATION LIMITS.—Expenditures for operation and maintenance of features substantially completed and features constructed before the date of enactment of the Dakota Water Resources Act of 2000, including funds expended for such purposes since the date of enactment of Public Law 99–294, shall not be counted against the authorization limits in this section.

"(5) MITIGATION AND ENHANCEMENT LAND.—On or about the date on which the features authorized by section 8(a) are operational, a separate account in the Natural Resources Trust authorized by section 11 shall be established for operation and maintenance of the mitigation and enhancement land associated with the unit."; and

(4) by striking subsection (e) and inserting the following:

"(e) INDEXING.—The $200,000,000 amount under subsection (b)(1)(B), the $200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 2000 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.".

SEC. 611. NATURAL RESOURCES TRUST.

Section 11 of Public Law 89–108 (100 Stat. 424) is amended—

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

"(a) CONTRIBUTION.—

"(1) INITIAL AUTHORIZATION.—

"(A) IN GENERAL.—From the sums appropriated under section 10 for the Garrison Diversion Unit, the Secretary shall make an annual Federal contribution to a Natural Resources Trust established by non-Federal interests in accordance with subsection (b) and operated in accordance with subsection (c).

"(B) AMOUNT.—The total amount of Federal contributions under subparagraph (A) shall not exceed $12,000,000.

"(2) ADDITIONAL AUTHORIZATION.—

"(A) IN GENERAL.—In addition to the amount authorized in paragraph (1), the Secretary shall make annual Federal contributions to the Natural Resources Trust until the amount authorized by section 10(c)(2)(B) is reached, in the manner stated in subparagraph (B).

"(B) ANNUAL AMOUNT.—The amount of the contribution under subparagraph (A) for each fiscal year shall be the

amount that is equal to 5 percent of the total amount that is appropriated for the fiscal year under subsections (a)(1)(B) and (b)(1)(B) of section 10.".

(2) in subsection (b), by striking "Wetlands Trust" and inserting "Natural Resources Trust"; and

(3) in subsection (c)—

(A) by striking "Wetland Trust" and inserting "Natural Resources Trust";

(B) by striking "are met" and inserting "is met";

(C) in paragraph (1), by inserting ", grassland conservation and riparian areas" after "habitat"; and

(D) in paragraph (2), by adding at the end the following:

"(C) The power to fund incentives for conservation practices by landowners.".

TITLE VII

SEC. 701. FINDINGS.

Congress finds that—

(1) there is a continuing need for reconciliation between Indians and non-Indians;

(2) the need may be met partially through the promotion of the understanding of the history and culture of Sioux Indian tribes;

(3) the establishment of a Sioux Nation Tribal Supreme Court will promote economic development on reservations of the Sioux Nation and provide investors that contribute to that development a greater degree of certainty and confidence by—

(A) reconciling conflicting tribal laws; and

(B) strengthening tribal court systems;

(4) the reservations of the Sioux Nation—

(A) contain the poorest counties in the United States; and

(B) lack adequate tools to promote economic development and the creation of jobs;

(5) the establishment of a Native American Economic Development Council will assist in promoting economic growth and reducing poverty on reservations of the Sioux Nation by—

(A) coordinating economic development efforts;

(B) centralizing expertise concerning Federal assistance; and

(C) facilitating the raising of funds from private donations to meet matching requirements under certain Federal assistance programs;

(6) there is a need to enhance and strengthen the capacity of Indian tribal governments and tribal justice systems to address conflicts which impair relationships within Indian communities and between Indian and non-Indian communities and individuals; and

(7) the establishment of the National Native American Mediation Training Center, with the technical assistance of tribal and Federal agencies, including the Community Relations Service of the Department of Justice, would enhance and strengthen the mediation skills that are useful in reducing tensions and resolving conflicts in Indian communities and between Indian and non-Indian communities and individuals.

SEC. 702. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) SIOUX NATION.—The term "Sioux Nation" means the Indian tribes comprising the Sioux Nation.

SEC. 703. RECONCILIATION CENTER.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development, in cooperation with the Secretary, shall establish, in accordance with this section, a reconciliation center, to be known as "Reconciliation Place".

(b) LOCATION.—Notwithstanding any other provision of law, the Secretary shall take into trust for the benefit of the Sioux Nation the parcel of land in Stanley County, South Dakota, that is described as "The Reconciliation Place Addition" that is owned on the date of enactment of this Act by the Wakpa Sica Historical Society, Inc., for the purpose of establishing and operating The Reconciliation Place.

(c) PURPOSES.—The purposes of Reconciliation Place shall be as follows:

(1) To enhance the knowledge and understanding of the history of Native Americans by—

(A) displaying and interpreting the history, art, and culture of Indian tribes for Indians and non-Indians; and

(B) providing an accessible repository for—

(i) the history of Indian tribes; and

(ii) the family history of members of Indian tribes.

(2) To provide for the interpretation of the encounters between Lewis and Clark and the Sioux Nation.

(3) To house the Sioux Nation Tribal Supreme Court.

(4) To house the Native American Economic Development Council.

(5) To house the National Native American Mediation Training Center to train tribal personnel in conflict resolution and alternative dispute resolution.

(d) GRANT.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall offer to award a grant to the Wakpa Sica Historical Society of Fort Pierre, South Dakota, for the construction of Reconciliation Place.

(2) GRANT AGREEMENT.—

(A) IN GENERAL.—As a condition to receiving the grant under this subsection, the appropriate official of the Wakpa Sica Historical Society shall enter into a grant agreement with the Secretary of Housing and Urban Development.

(B) CONSULTATION.—Before entering into a grant agreement under this paragraph, the Secretary of Housing and Urban Development shall consult with the Secretary concerning the contents of the agreement.

(C) DUTIES OF THE WAKPA SICA HISTORICAL SOCIETY.—The grant agreement under this paragraph shall specify the duties of the Wakpa Sica Historical Society under this

section and arrangements for the maintenance of Reconciliation Place.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Housing and Urban Development $18,258,441, to be used for the grant under this section.

SEC. 704. SIOUX NATION SUPREME COURT AND NATIONAL NATIVE AMERICAN MEDIATION TRAINING CENTER.

(a) IN GENERAL.—To ensure the development and operation of the Sioux Nation Tribal Supreme Court and the National Native American Mediation Training Center, the Attorney General of the United States shall use available funds to provide technical and financial assistance to the Sioux Nation.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Department of Justice such sums as are necessary.

TITLE VIII—ERIE CANALWAY NATIONAL HERITAGE CORRIDOR

SEC. 801. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "Erie Canalway National Heritage Corridor Act".

(b) DEFINITIONS.—For the purposes of this title, the following definitions shall apply:

(1) ERIE CANALWAY.—The term "Erie Canalway" means the 524 miles of navigable canal that comprise the New York State Canal System, including the Erie, Cayuga and Seneca, Oswego, and Champlain Canals and the historic alignments of these canals, including the cities of Albany and Buffalo.

(2) CANALWAY PLAN.—The term "Canalway Plan" means the comprehensive preservation and management plan for the Corridor required under section 806.

(3) COMMISSION.—The term "Commission" means the Erie Canalway National Heritage Corridor Commission established under section 804.

(4) CORRIDOR.—The term "Corridor" means the Erie Canalway National Heritage Corridor established under section 803.

(5) GOVERNOR.—The term "Governor" means the Governor of the State of New York.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the year 2000 marks the 175th Anniversary of New York State's creation and stewardship of the Erie Canalway for commerce, transportation, and recreational purposes, establishing the network which made New York the "Empire State" and the Nation's premier commercial and financial center;

(2) the canals and adjacent areas that comprise the Erie Canalway are a nationally significant resource of historic and recreational value, which merit Federal recognition and assistance;

(3) the Erie Canalway was instrumental in the establishment of strong political and cultural ties between New England, upstate New York, and the old Northwest and facilitated the movement of ideas and people ensuring that social reforms like the abolition of slavery and the women's rights movement spread across upstate New York to the rest of the country;

(4) the construction of the Erie Canalway was considered a supreme engineering feat, and most American canals were modeled after New York State's canal;

(5) at the time of construction, the Erie Canalway was the largest public works project ever undertaken by a State, resulting in the creation of critical transportation and commercial routes to transport passengers and goods;

(6) the Erie Canalway played a key role in turning New York City into a major port and New York State into the preeminent center for commerce, industry, and finance in North America and provided a permanent commercial link between the Port of New York and the cities of eastern Canada, a cornerstone of the peaceful relationship between the two countries;

(7) the Erie Canalway proved the depth and force of American ingenuity, solidified a national identity, and found an enduring place in American legend, song, and art;

(8) there is national interest in the preservation and interpretation of the Erie Canalway's important historical, natural, cultural, and scenic resources; and

(9) partnerships among Federal, State, and local governments and their regional entities, nonprofit organizations, and the private sector offer the most effective opportunities for the preservation and interpretation of the Erie Canalway.

(b) PURPOSES.—The purposes of this title are—

(1) to designate the Erie Canalway National Heritage Corridor;

(2) to provide for and assist in the identification, preservation, promotion, maintenance, and interpretation of the historical, natural, cultural, scenic, and recreational resources of the Erie Canalway in ways that reflect its national significance for the benefit of current and future generations;

(3) to promote and provide access to the Erie Canalway's historical, natural, cultural, scenic, and recreational resources;

(4) to provide a framework to assist the State of New York, its units of local government, and the communities within the Erie Canalway in the development of integrated cultural, historical, recreational, economic, and community development programs in order to enhance and interpret the unique and nationally significant resources of the Erie Canalway; and

(5) to authorize Federal financial and technical assistance to the Commission to serve these purposes for the benefit of the people of the State of New York and the Nation.

SEC. 803. THE ERIE CANALWAY NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—To carry out the purposes of this title there is established the Erie Canalway National Heritage Corridor in the State of New York.

(b) BOUNDARIES.—The boundaries of the Corridor shall include those lands generally depicted on a map entitled "Erie Canalway National Heritage Area" numbered ERIE/80,000 and dated October

2000. This map shall be on file and available for public inspection in the appropriate office of the National Park Service, the office of the Commission, and the office of the New York State Canal Corporation in Albany, New York.

(c) OWNERSHIP AND OPERATION OF THE NEW YORK STATE CANAL SYSTEM.—The New York State Canal System shall continue to be owned, operated, and managed by the State of New York.

SEC. 804. THE ERIE CANALWAY NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is established the Erie Canalway National Heritage Corridor Commission. The purpose of the Commission shall be—

(1) to work with Federal, State, and local authorities to develop and implement the Canalway Plan; and

(2) to foster the integration of canal-related historical, cultural, recreational, scenic, economic, and community development initiatives within the Corridor.

(b) MEMBERSHIP.—The Commission shall be composed of 27 members as follows:

(1) The Secretary of the Interior, ex officio or the Secretary's designee.

(2) Seven members, appointed by the Secretary after consideration of recommendations submitted by the Governor and other appropriate officials, with knowledge and experience of the following agencies or those agencies' successors: The New York State Secretary of State, the New York State Department of Environment Conservation, the New York State Office of Parks, Recreation and Historic Preservation, the New York State Department of Agriculture and Markets, the New York State Department of Transportation, and the New York State Canal Corporation, and the Empire State Development Corporation.

(3) The remaining 19 members who reside within the Corridor and are geographically dispersed throughout the Corridor shall be from local governments and the private sector with knowledge of tourism, economic and community development, regional planning, historic preservation, cultural or natural resource management, conservation, recreation, and education or museum services. These members will be appointed by the Secretary as follows:

(A) Eleven members based on a recommendation from each member of the United States House of Representatives whose district shall encompass the Corridor. Each shall be a resident of the district from which they shall be recommended.

(B) Two members based on a recommendation from each United States Senator from New York State.

(C) Six members who shall be residents of any county constituting the Corridor. One such member shall have knowledge and experience of the Canal Recreationway Commission.

(c) APPOINTMENTS AND VACANCIES.—Members of the Commission other than ex officio members shall be appointed for terms of 3 years. Of the original appointments, six shall be for a term of 1 year, six shall be for a term of 2 years, and seven shall be for a term of 3 years. Any member of the Commission appointed

for a definite term may serve after expiration of the term until the successor of the member is appointed. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. Members of the Commission, other than employees of the State and Canal Corporation, while away from their homes or regular places of business to perform services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed under section 5703 of title 5, United States Code.

(e) ELECTION OF OFFICES.—The Commission shall elect the chairperson and the vice chairperson on an annual basis. The vice chairperson shall serve as the chairperson in the absence of the chairperson.

(f) QUORUM AND VOTING.—Fourteen members of the Commission shall constitute a quorum but a lesser number may hold hearings. Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, however, any member voting by proxy shall not be considered present for purposes of establishing a quorum. For the transaction of any business or the exercise of any power of the Commission, the Commission shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance.

(g) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or 14 of its members. Notice of Commission meetings and agendas for the meeting shall be published in local newspapers throughout the Corridor. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(h) POWERS OF THE COMMISSION.—To the extent that Federal funds are appropriated, the Commission is authorized—

(1) to procure temporary and intermittent services and administrative facilities at rates determined to be reasonable by the Commission to carry out the responsibilities of the Commission;

(2) to request and accept the services of personnel detailed from the State of New York or any political subdivision, and to reimburse the State or political subdivision for such services;

(3) to request and accept the services of any Federal agency personnel, and to reimburse the Federal agency for such services;

(4) to appoint and fix the compensation of staff to carry out its duties;

(5) to enter into cooperative agreements with the State of New York, with any political subdivision of the State, or any person for the purposes of carrying out the duties of the Commission;

(6) to make grants to assist in the preparation and implementation of the Canalway Plan;

(7) to seek, accept, and dispose of gifts, bequests, grants, or donations of money, personal property, or services, received

from any source. For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States;

(8) to assist others in developing educational, informational, and interpretive programs and facilities, and other such activities that may promote the implementation of the Canalway Plan;

(9) to hold hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; the Commission may not issue subpoenas or exercise any subpoena authority;

(10) to use the United States mails in the same manner as other departments or agencies of the United States;

(11) to request and receive from the Administrator of General Services, on a reimbursable basis, such administrative support services as the Commission may request; and

(12) to establish such advisory groups as the Commission deems necessary.

(i) ACQUISITION OF PROPERTY.—Except as provided for leasing administrative facilities under section 804(h)(1), the Commission may not acquire any real property or interest in real property.

(j) TERMINATION.—The Commission shall terminate on the day occurring 10 years after the date of enactment of this title.

SEC. 805. DUTIES OF THE COMMISSION.

(a) PREPARATION OF CANALWAY PLAN.—Not later than 3 years after the Commission receives Federal funding for this purpose, the Commission shall prepare and submit a comprehensive preservation and management Canalway Plan for the Corridor to the Secretary and the Governor for review and approval. In addition to the requirements outlined for the Canalway Plan in section 806, the Canalway Plan shall incorporate and integrate existing Federal, State, and local plans to the extent appropriate regarding historic preservation, conservation, education and interpretation, community development, and tourism-related economic development for the Corridor that are consistent with the purpose of this title. The Commission shall solicit public comment on the development of the Canalway Plan.

(b) IMPLEMENTATION OF CANALWAY PLAN.—After the Commission receives Federal funding for this purpose, and after review and upon approval of the Canalway Plan by the Secretary and the Governor, the Commission shall—

(1) undertake action to implement the Canalway Plan so as to assist the people of the State of New York in enhancing and interpreting the historical, cultural, educational, natural, scenic, and recreational potential of the Corridor identified in the Canalway Plan; and

(2) support public and private efforts in conservation and preservation of the Canalway's cultural and natural resources and economic revitalization consistent with the goals of the Canalway Plan.

(c) PRIORITY ACTIONS.—Priority actions which may be carried out by the Commission under section 805(b), include—

(1) assisting in the appropriate preservation treatment of the remaining elements of the original Erie Canal;

(2) assisting State, local governments, and nonprofit organizations in designing, establishing, and maintaining visitor centers, museums, and other interpretive exhibits in the Corridor;

(3) assisting in the public awareness and appreciation for the historic, cultural, natural, scenic, and recreational resources and sites in the Corridor;

(4) assisting the State of New York, local governments, and nonprofit organizations in the preservation and restoration of any historic building, site, or district in the Corridor;

(5) encouraging, by appropriate means, enhanced economic development in the Corridor consistent with the goals of the Canalway Plan and the purposes of this title; and

(6) ensuring that clear, consistent signs identifying access points and sites of interest are put in place in the Corridor.

(d) ANNUAL REPORTS AND AUDITS.—For any year in which Federal funds have been received under this title, the Commission shall submit an annual report and shall make available an audit of all relevant records to the Governor and the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report was made, and contributions by other parties toward achieving Corridor purposes.

SEC. 806. CANALWAY PLAN.

(a) CANALWAY PLAN REQUIREMENTS.—The Canalway Plan shall—

(1) include a review of existing plans for the Corridor, including the Canal Recreationway Plan and Canal Revitalization Program, and incorporate them to the extent feasible to ensure consistence with local, regional, and State planning efforts;

(2) provide a thematic inventory, survey, and evaluation of historic properties that should be conserved, restored, developed, or maintained because of their natural, cultural, or historic significance within the Corridor in accordance with the regulations for the National Register of Historic Places;

(3) identify public and private-sector preservation goals and strategies for the Corridor;

(4) include a comprehensive interpretive plan that identifies, develops, supports, and enhances interpretation and education programs within the Corridor that may include—

(A) research related to the construction and history of the canals and the cultural heritage of the canal workers, their families, those that traveled along the canals, the associated farming activities, the landscape, and the communities;

(B) documentation of and methods to support the perpetuation of music, art, poetry, literature and folkways associated with the canals; and

(C) educational and interpretative programs related to the Erie Canalway developed in cooperation with State and local governments, educational institutions, and nonprofit institutions;

(5) include a strategy to further the recreational development of the Corridor that will enable users to uniquely experience the canal system;

(6) propose programs to protect, interpret, and promote the Corridor's historical, cultural, recreational, educational, scenic, and natural resources;

(7) include an inventory of canal-related natural, cultural and historic sites and resources located in the Area;

(8) recommend Federal, State, and local strategies and policies to support economic development, especially tourism-related development and recreation, consistent with the purposes of the Corridor;

(9) develop criteria and priorities for financial preservation assistance;

(10) identify and foster strong cooperative relationships between the National Park Service, the New York State Canal Corporation, other Federal and State agencies, and nongovernmental organizations;

(11) recommend specific areas for development of interpretive, educational, and technical assistance centers associated with the Corridor; and

(12) contain a program for implementation of the Canalway Plan by all necessary parties.

(b) APPROVAL OF THE CANALWAY PLAN.—The Secretary and the Governor shall approve or disapprove the Canalway Plan not later than 90 days after receiving the Canalway Plan.

(c) CRITERIA.—The Secretary may not approve the plan unless the Secretary finds that the plan, if implemented, would adequately protect the significant historical, cultural, natural, and recreational resources of the Corridor and consistent with such protection provide adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor. In determining whether or not to approve the Canalway Plan, the Secretary shall consider whether—

(1) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the Canalway Plan; and

(2) the Secretary has received adequate assurances from the Governor and appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the Canalway Plan and such program will ensure effective implementation of State and local aspects of the Canalway Plan.

(d) DISAPPROVAL OF CANALWAY PLAN.—If the Secretary or the Governor do not approve the Canalway Plan, the Secretary or the Governor shall advise the Commission in writing within 90 days the reasons therefore and shall indicate any recommendations for revisions. Following completion of any necessary revisions of the Canalway Plan, the Secretary and the Governor shall have 90 days to either approve or disapprove of the revised Canalway Plan.

(e) AMENDMENTS TO CANALWAY PLAN.—The Secretary and the Governor shall review substantial amendments to the Canalway Plan. Funds appropriated pursuant to this title may not be expended to implement the changes made by such amendments until the Secretary and the Governor approve the amendments.

SEC. 807. DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to assist the Commission in the preparation of the Canalway Plan.

(b) TECHNICAL ASSISTANCE.—Pursuant to an approved Canalway Plan, the Secretary is authorized to enter into cooperative agreements with, provide technical assistance to and award grants to the Commission to provide for the preservation and interpretation of the natural, cultural, historical, recreational, and scenic resources of the Corridor, if requested by the Commission.

(c) EARLY ACTIONS.—Prior to approval of the Canalway Plan, with the approval of the Commission, the Secretary may provide technical and planning assistance for early actions that are important to the purposes of this title and that protect and preserve resources.

(d) CANALWAY PLAN IMPLEMENTATION.—Upon approval of the Canalway Plan, the Secretary is authorized to implement those activities that the Canalway Plan has identified that are the responsibility of the Secretary or agent of the Secretary to undertake in the implementation of the Canalway Plan.

(e) DETAIL.—Each fiscal year during the existence of the Commission and upon the request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, two employees of the Department of the Interior to enable the Commission to carry out the Commission's duties with regard to the preparation and approval of the Canalway Plan. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

SEC. 808. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting any activity directly affecting the Corridor, and any unit of Government acting pursuant to a grant of Federal funds or a Federal permit or agreement conducting or supporting such activities may—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this title and coordinate such activities with the carrying out of such duties; and

(3) conduct or support such activities in a manner consistent with the Canalway Plan unless the Federal entity, after consultation with the Secretary and the Commission, determines there is no practicable alternative.

SEC. 809. SAVINGS PROVISIONS.

(a) AUTHORITY OF GOVERNMENTS.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of the Federal, State, or local governments to regulate any use of land as provided for by law or regulation.

(b) ZONING OR LAND.—Nothing in this title shall be construed to grant powers of zoning or land use to the Commission.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY.—Nothing in this title shall be construed to affect or to authorize the Commission to interfere with—

(1) the rights of any person with respect to private property;

(2) any local zoning ordinance or land use plan of the State of New York or political subdivision thereof; or

(3) any State or local canal-related development plans including but not limited to the Canal Recreationway Plan and the Canal Revitalization Program.

(d) FISH AND WILDLIFE.—The designation of the Corridor shall not be diminish the authority of the State of New York to manage fish and wildlife, including the regulation of fishing and hunting within the Corridor.

SEC. 810. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) CORRIDOR.—There is authorized to be appropriated for the Corridor not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Corridor under this title.

(2) MATCHING REQUIREMENT.—Federal funding provided under this paragraph may not exceed 50 percent of the total cost of any activity carried out with such funds. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

(b) OTHER FUNDING.—In addition to the sums authorized in subsection (a), there are authorized to be appropriated to the Secretary of the Interior such sums as are necessary for the Secretary for planning and technical assistance.

TITLE IX—LAW ENFORCEMENT PAY EQUITY

SEC. 901. SHORT TITLE.

This title may be cited as the "Law Enforcement Pay Equity Act of 2000".

SEC. 902. ESTABLISHMENT OF UNIFORM SALARY SCHEDULE FOR UNITED STATES SECRET SERVICE UNIFORMED DIVISION AND UNITED STATES PARK POLICE.

(a) IN GENERAL.—Section 501(c)(1) of the District of Columbia Police and Firemen's Salary Act of 1958 (sec. 4–416(c)(1), D.C. Code) is amended to read as follows:

"(c)(1) The annual rates of basic compensation of officers and members of the United States Secret Service Uniformed Division and the United States Park Police, serving in classes corresponding or similar to those in the salary schedule in section 101, shall be fixed in accordance with the following schedule of rates:

"Salary class and title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Time between steps		52 weeks			104 weeks		
Years in service		1	2	3	5	7	9
1: Private ...	32,623	34,587	36,626	38,306	41,001	43,728	45,407
3: Detective			42,378	44,502	46,620	48,746	50,837
4: Sergeant				46,151	48,446	50,746	53,056
5: Lieutenant[1]					50,910	53,462	56,545
7: Captain[1]						59,802	62,799
8: Inspector/Major[1]						69,163	72,760
9: Deputy Chief[1]						79,768	85,158

"Salary class and title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
10: Assistant Chief[2]							
11: Chief, United States Secret Service Uniformed Division, United States Park Police[3]							

[1] The rate of basic pay for positions in Salary Class 5, 7, 8, and 9 is limited to 95 percent of the rate of pay for level V of the Executive Schedule.
[2] The rate of basic pay for positions in Salary Class 10 will be equal to 95 percent of the rate of pay for level V of the Executive Schedule.
[3] The rate of basic pay for positions in Salary Class 11 will be equal to the rate of pay for level V of the Executive Schedule.

"Salary class and title	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14
Time between steps	104 weeks		156 weeks	208 weeks			
Years in service	11	13	15	18	22	26	30
1: Private ...	47,107	48,801	50,498	53,448	55,394	57,036	58,746
3: Detective	52,972	55,086	57,204	61,212	63,337	65,462	67,426
4: Sergeant	55,372	57,691	59,999	63,558	65,867	68,176	70,221
5: Lieutenant[1]	59,120	61,688	64,258	68,197	70,744	73,290	75,489
7: Captain[1]	65,797	68,757	71,747	76,292	79,309	82,325	84,796
8: Inspector/Major[1]	76,542	80,524	83,983	87,645	91,827	95,464	99,075
9: Deputy Chief[1]	90,578	95,980	99,968	103,957	107,945	111,933	115,291
10: Assistant Chief[2]							
11: Chief, United States Secret Service Uniformed Division, United States Park Police[3]							

[1] The rate of basic pay for positions in Salary Class 5, 7, 8, and 9 is limited to 95 percent of the rate of pay for level V of the Executive Schedule.
[2] The rate of basic pay for positions in Salary Class 10 will be equal to 95 percent of the rate of pay for level V of the Executive Schedule.
[3] The rate of basic pay for positions in Salary Class 11 will be equal to the rate of pay for level V of the Executive Schedule.

(b) FREEZE OF CURRENT RATE FOR LOCALITY-BASED COMPARABILITY ADJUSTMENTS.—Notwithstanding any other provision of law, including this title or any provision of law amended by this title, no officer or member of the United States Secret Service Uniformed Division or the United States Park Police may be paid locality pay under section 5304 or section 5304a of title 5, United States Code, at a percentage rate for the applicable locality in

excess of the rate in effect for pay periods during calendar year 2000.

(c) CONFORMING AMENDMENTS.—

(1) APPLICATION OF PROVISIONS TO PARK POLICE.—Section 501(c) of such Act (sec. 4–416(c), D.C. Code) is amended—

(A) in paragraph (2), by striking "Treasury" and inserting the following: "Treasury, and the annual rates of basic compensation of officers and members of the United States Park Police shall be adjusted by the Secretary of the Interior,";

(B) in paragraph (5), by inserting after "Uniformed Division" the following: "or officers and members of the United States Park Police";

(C) in paragraph (6)(A), by inserting after "Uniformed Division" the following: "or the United States Park Police"; and

(D) in paragraph (7)(A), by inserting after "Uniformed Division" the following: "or the United States Park Police".

(2) TERMINATION OF CURRENT ADJUSTMENT AUTHORITY.—Section 501(b) of such Act (sec. 4–416(b), D.C. Code) is amended by adding at the end the following new paragraph:

"(4) This subsection shall not apply with respect to any pay period for which the salary schedule under subsection (c) applies to the United States Park Police.".

SEC. 903. REVISION OF CAPS ON MAXIMUM COMPENSATION.

(a) ANNUAL SALARY UNDER SCHEDULE.—Section 501(c)(2) of the District of Columbia Police and Firemen's Salary Act of 1958 (sec. 4–416(c)(2), D.C. Code) is amended by striking the period at the end and inserting the following: ", except that in no case may the annual rate of basic compensation for any such officer or member exceed the rate of basic pay payable for level IV of the Executive Schedule contained in subchapter II of chapter 53 of title 5, United States Code.".

(b) REPEAL OF CAP ON COMBINED BASIC PAY AND LONGEVITY PAY.—Section 501(c) of such Act (sec. 4–416(c), D.C. Code) is amended by striking paragraph (4).

(c) LIMITATION ON PAY PERIOD EARNINGS FOR COMP TIME.—Section 1(h) of the Act entitled "An Act to provide a 5-day week for officers and members of the Metropolitan Police force, the United States Park Police force, and the White House Police force, and for other purposes", approved August 15, 1950 (sec. 4–1104(h), D.C. Code), is amended—

(1) in paragraphs (1) and (2), by striking "Metropolitan Police force; or of the Fire Department of the District of Columbia; or of the United States Park Police" each place it appears and inserting "Metropolitan Police force or of the Fire Department of the District of Columbia"; and

(2) in paragraph (3), by inserting after "United States Secret Service Uniformed Division" each place it appears the following: "or of the United States Park Police".

SEC. 904. DETERMINATION OF SERVICE STEP ADJUSTMENTS.

(a) METHOD FOR DETERMINATION OF ADJUSTMENTS.—Section 303(a) of the District of Columbia Police and Firemen's Salary Act of 1958 (sec. 4–412(a), D.C. Code) is amended—

(1) in the matter preceding paragraph (1), by "Each" and inserting "Except as provided in paragraph (5), each"; and

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

"(5) Each officer and member of the United States Secret Service Uniformed Division and the United States Park Police with a current performance rating of 'satisfactory' or better, shall have a service step adjustment in the following manner:

"(A) Each officer and member in service step 1, 2, or 3 shall be advanced in compensation successively to the next higher service step at the beginning of the 1st pay period immediately subsequent to the completion of 52 calendar weeks of active service in the officer's or member's service step.

"(B) Each officer and member in service step 4, 5, 6, 7, 8, or 9 shall be advanced in compensation successively to the next higher service step at the beginning of the 1st pay period immediately subsequent to the completion of 104 calendar weeks of active service in the officer's or member's service step.

"(C) Each officer and member in service step 10 shall be advanced in compensation successively to the next higher service step at the beginning of the 1st pay period immediately subsequent to the completion of 156 calendar weeks of active service in the officer's or member's service step.

"(D) Each officer and member in service steps 11, 12, or 13 shall be advanced in compensation successively to the next higher service step at the beginning of the 1st pay period immediately subsequent to the completion of 208 calendar weeks of active service in the officer's or member's service step.".

(b) USE OF TOTAL CREDITABLE SERVICE TO DETERMINE STEP PLACEMENT.—Section 304 of such Act (sec. 4–413, D.C. Code) is amended—

(1) in subsection (a), by striking "(b)" and inserting "(b) or (c)"; and

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

"(c)(1) Each officer and member of the United States Secret Service Uniformed Division or the United States Park Police who is promoted or transferred to a higher salary shall receive basic compensation in accordance with the officer's or member's total creditable service.

"(2) For purposes of this subsection, an officer's or member's creditable service is any police service in pay status with the United States Secret Service Uniformed Division, United States Park Police, or Metropolitan Police Department.".

(c) CONFORMING AMENDMENT.—Section 401(a) of such Act (sec. 4–415(a), D.C. Code) is amended by adding at the end the following new paragraph:

"(4) This subsection shall not apply to officers and members of the United States Secret Service Uniformed Division or the United States Park Police.".

SEC. 905. CONVERSION TO NEW SALARY SCHEDULE.

(a) IN GENERAL.—

(1) DETERMINATION OF RATES OF BASIC PAY.—Effective on the first day of the 1st pay period beginning 6 months after the date of enactment of this Act, the Secretary of the Treasury shall fix the rates of basic pay for officers and members of

the United States Secret Service Uniformed Division, and the Secretary of the Interior shall fix the rates of basic pay for officers and members of the United States Park Police, in accordance with this subsection.

(2) PLACEMENT ON REVISED SALARY SCHEDULE.—

(A) IN GENERAL.—Each officer and member shall be placed in and receive basic compensation at the corresponding scheduled service step of the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by section 902(a)) in accordance with the member's total years of creditable service, receiving credit for all service step adjustments. If the scheduled rate of pay for the step to which the officer or member would be assigned in accordance with this paragraph is lower than the officer's or member's salary immediately prior to the enactment of this paragraph, the officer or member will be placed in and receive compensation at the next higher service step.

(B) CREDIT FOR INCREASES DURING TRANSITION.—Each member whose position is to be converted to the salary schedule under section 501(b) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by subsection (a)) and who, prior to the effective date of this section has earned, but has not been credited with, an increase in his or her rate of pay shall be afforded that increase before such member is placed in the corresponding service step in the salary schedule under section 501(b).

(C) CREDITABLE SERVICE DESCRIBED.—For purposes of this paragraph, an officer's or member's creditable service is any police service in pay status with the United States Secret Service Uniformed Division, United States Park Police, or Metropolitan Police Department.

(b) HOLD HARMLESS FOR CURRENT TOTAL COMPENSATION.—Notwithstanding any other provision of law, if the total rate of compensation for an officer or employee for any pay period occurring after conversion to the salary schedule pursuant to subsection (a) (determined by taking into account any locality-based comparability adjustments, longevity pay, and other adjustments paid in addition to the rate of basic compensation) is less than the officer's or employee's total rate of compensation (as so determined) on the date of enactment, the rate of compensation for the officer or employee for the pay period shall be equal to—

(1) the rate of compensation on the date of enactment (as so determined); increased by

(2) a percentage equal to 50 percent of sum of the percentage adjustments made in the rate of basic compensation under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by subsection (a)) for pay periods occurring after the date of enactment and prior to the pay period involved.

(c) CONVERSION NOT TREATED AS TRANSFER OR PROMOTION.—The conversion of positions and individuals to appropriate classes of the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by section 902(a)) and the initial adjustments of rates of basic pay of those positions and individuals in accordance with subsection (a) shall not be considered to be transfers or promotions within the meaning

of section 304 of the District of Columbia Police and Firemen's Salary Act of 1958 (sec. 4–413, D.C. Code).

(d) TRANSFER OF CREDIT FOR SATISFACTORY SERVICE.—Each individual whose position is converted to the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by section 902(a)) in accordance with subsection (a) shall be granted credit for purposes of such individual's first service step adjustment under the salary schedule in such section 501(c) for all satisfactory service performed by the individual since the individual's last increase in basic pay prior to the adjustment under that section.

(e) ADJUSTMENT TO TAKE INTO ACCOUNT GENERAL SCHEDULE ADJUSTMENTS DURING TRANSITION.—The rates provided under the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by section 902(a)) shall be increased by the percentage of any annual adjustment applicable to the General Schedule authorized under section 5303 of title 5, United States Code, which takes effect during the period which begins on the date of the enactment of this Act and ends on the first day of the first pay period beginning 6 months after the date of enactment of this Act.

(f) CONVERSION NOT TREATED AS SALARY INCREASE FOR PURPOSES OF CERTAIN PENSIONS AND ALLOWANCES.—The conversion of positions and individuals to appropriate classes of the salary schedule under section 501(c) of the District of Columbia Police and Firemen's Salary Act of 1958 (as amended by section 2(a)) and the initial adjustments of rates of basic pay of those positions and individuals in accordance with subsection (a) shall not be treated as an increase in salary for purposes of section 3 of the Act entitled "An Act to provide increased pensions for widows and children of deceased members of the Police Department and the Fire Department of the District of Columbia", approved August 4, 1949 (sec. 4–604, D.C. Code), or section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (sec. 4–605, D.C. Code).

SEC. 906. PAY ADJUSTMENTS FOR CERTAIN POSITIONS.

(a) TECHNICIAN DUTY.—Section 302 of the District of Columbia Police and Firemen's Salary Act of 1958 (sec. 4–411, D.C. Code) is amended—

(1) in subsection (b), by striking "$810 per annum" and inserting the following: "$810 per annum, except in the case of an officer or member of the United States Secret Service Uniformed Division or the United States Park Police, who shall receive a per annum amount equal to 6 percent of the sum of such officer's or member's rate of basic compensation plus locality pay adjustments";

(2) in subsection (c), by striking "$595 per annum" each place it appears and inserting the following: "$595 per annum, except in the case of an officer or member of the United States Park Police, who shall receive a per annum amount equal to 6 percent of the sum of such officer's or member's rate of basic compensation plus locality pay adjustments"; and

(3) in subsection (e), by inserting after "Whenever any officer or member" the following: "(other than an officer or member of the United States Secret Service Uniformed Division or the United States Park Police)".

(b) HELICOPTER PILOT, BOMB DISPOSAL, OR SCUBA DIVING DUTY.—Section 202 of such Act (sec. 4–408, D.C. Code) is amended by striking "$2,270 per annum" and inserting the following: "$2,270 per annum, except in the case of an officer or member of the United States Park Police, who shall receive a per annum amount equal to 7 percent of the sum of such officer's or member's rate of basic compensation plus locality pay adjustments".

SEC. 907. CONFORMING PROVISIONS RELATING TO FEDERAL LAW ENFORCEMENT PAY REFORM ACT.

(a) TERMINATION OF EXISTING SPECIAL SALARY RATES AND ADJUSTMENTS.—Beginning on the effective date of this Act—

(1) no existing special salary rates shall be authorized for members of the United States Park Police under section 5305 of title 5, United States Code (or any previous similar provision of law); and

(2) no special rates of pay or special pay adjustments shall be applicable to members of the United States Park Police pursuant to section 405 of the Federal Law Enforcement Pay Reform Act of 1990.

(b) CONFORMING AMENDMENTS.—(1) Section 405(b) of the Federal Law Enforcement Pay Reform Act of 1990 (5 U.S.C. 5303 note) is amended to read as follows:

"(b) This subsection applies with respect to any—

"(1) special agent within the Diplomatic Security Service;

"(2) probation officer (referred to in section 3672 of title 18, United States Code); or

"(3) pretrial services officer (referred to in section 3153 of title 18, United States Code).".

(2) Section 405(c) of such Act (5 U.S.C. 5303 note) is amended to read as follows:

"(c) For purposes of this section, the term 'appropriate agency head' means—

"(1) with respect to any individual under subsection (b)(1), the Secretary of State; or

"(2) with respect to any individual under subsection (b)(2) or (b)(3), the Director of the Administrative Office of the United States Courts.".

SEC. 908. SERVICE LONGEVITY PAYMENTS FOR METROPOLITAN POLICE DEPARTMENT.

(a) INCLUSION OF SERVICE LONGEVITY PAYMENTS IN AMOUNT OF FEDERAL BENEFIT PAYMENTS MADE TO METROPOLITAN POLICE DEPARTMENT OFFICERS AND MEMBERS.—Section 11012 of the District of Columbia Retirement Protection Act of 1997 (Public Law 105–33; 111 Stat. 718; D.C. Code, sec. 1–762.2) is amended by adding at the end the following new subsection:

"(e) TREATMENT OF INCREASES IN CERTAIN POLICE SERVICE LONGEVITY PAYMENTS.—For purposes of subsection (a), in determining the amount of a Federal benefit payment made to an officer or member of the Metropolitan Police Department, the benefit payment to which the officer or member is entitled under the District Retirement Program shall include any amounts which would have been included in the benefit payment under such Program if the amendments made by the Police Recruiting and Retention Enhancement Amendment Act of 1999 had taken effect prior to the freeze date.".

(b) CONFORMING AMENDMENT.—Section 11003(5) of such Act (Public Law 105–33; 111 Stat. 717; D.C. Code, sec. 1–761.2(5)) is amended by inserting after "except as" the following: "provided under section 11012(e) and as".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to Federal benefit payments made after the date of the enactment of this Act.

SEC. 909. EFFECTIVE DATE.

Except as provided in section 908(c), this title and the amendments made by this title shall become effective on the first day of the first pay period beginning 6 months after the date of enactment.

TITLE X

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISIONS

SEC. 1001. Section 206(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (42 U.S.C. 12701 note) is amended—

(1) in paragraph (1), by striking "V" and inserting "III"; and

(2) in paragraph (4), by striking "reimbursable" and inserting "non-reimbursable".

SEC. 1002. For purposes of part 2, subpart B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Public Law 102–550), notwithstanding any other provision of law or regulation, for purposes of measuring the extent of compliance with the housing goals for the years 2001, 2002, and 2003, the Secretary of Housing and Urban Development shall assign, in the case of the Federal Home Loan Mortgage Corporation, 1.35 units of credit toward achievement of each housing goal for each unit of multifamily housing (excepting units located in properties having between 5 and 50 units) qualifying as affordable under such housing goal.

SEC. 1003. Notwithstanding any other provision of law, neither the City of Toledo, Ohio, nor the Secretary of Housing and Urban Development (HUD) is required to enforce any requirements associated with Housing Development Grant number 00H006H6402 provided to the City of Toledo, Ohio, that prohibit or restrict the conversion of the rental units in the Beacon Place project to condominium ownership: *Provided*, That the City of Toledo and the Secretary of HUD are authorized to take any actions necessary to cause any such prohibition or restriction to be removed from the appropriate land records and otherwise terminated: *Provided further*, That converted units shall remain available as rental housing to those persons, including low- and very-low-income persons who presently reside in the units: *Provided further*, That the conversion proposal for Beacon Place apartments shall not reduce the number of affordable housing units in Toledo: *Provided further*, That any and all proceeds from such conversion are used to retire debt associated with the Beacon Place project or to rehabilitate the properties known as the Cubbon Properties.

SEC. 1004. The Comptroller General of the United States shall conduct a study on the following topics—

(a)(1) The adequacy of the capital structure of the Federal Home Loan Bank (FHLB) System as it relates to the risks posed by: (A) the traditional advances business of the FHLB System; (B) the expanded collateral provisions and permissible uses of advances under the Gramm-Leach-Bliley Act of 1999; and (C) the MPF, and other programs providing for the direct acquisition of mortgages. The analysis should examine the credit risk, interest rate risk, and operations risk associated with each structure;

(2) The risks associated with further growth in the direct acquisition of mortgages by the Federal Home Loan Bank System; and

(3) A comparison of the risk-based capital standard proposed by the Federal Housing Finance Board for the Federal Home Loan Bank System to the standard proposed by the Office of Federal Housing Enterprise Oversight for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives a report on the study required under subsection (a).

TITLE XI

DEPARTMENT OF THE TREASURY

ADMINISTRATIVE PROVISION

SEC. 1101. HONORING THE NAVAJO CODE TALKERS.

(a) Congress finds that—

(1) on December 7, 1941, the Japanese Empire attacked Pearl Harbor and war was declared by Congress the following day;

(2) the military code, developed by the United States for transmitting messages, had been deciphered by the Japanese, and a search by United States intelligence was made to develop new means to counter the enemy;

(3) the United States Government called upon the Navajo Nation to support the military effort by recruiting and enlisting 29 Navajo men to serve as Marine Corps Radio Operators;

(4) the number of Navajo enlistees later increased to more than 350;

(5) at the time, the Navajos were often treated as second-class citizens, and they were a people who were discouraged from using their own native language;

(6) the Navajo Marine Corps Radio Operators, who became known as the "Navajo Code Talkers", were used to develop a code using their native language to communicate military messages in the Pacific;

(7) to the enemy's frustration, the code developed by these Native Americans proved to be unbreakable, and was used extensively throughout the Pacific theater;

(8) the Navajo language, discouraged in the past, was instrumental in developing the most significant and successful military code of the time;

(9) at Iwo Jima alone, the Navajo Code Talkers passed over 800 error-free messages in a 48-hour period;

(10) use of the Navajo Code was so successful, that—

(A) military commanders credited it in saving the lives of countless American soldiers and in the success of the engagements of the United States in the battles of Guadalcanal, Tarawa, Saipan, Iwo Jima, and Okinawa;

(B) some Code Talkers were guarded by fellow marines, whose role was to kill them in case of imminent capture by the enemy; and

(C) the Navajo Code was kept secret for 23 years after the end of World War II;

(11) following the conclusion of World War II, the Department of Defense maintained the secrecy of the Navajo code until it was declassified in 1968; and

(12) only then did a realization of the sacrifice and valor of these brave Native Americans emerge from history.

(b)(1) To express recognition by the United States and its citizens in honoring the Navajo Code Talkers, who distinguished themselves in performing a unique, highly successful communications operation that greatly assisted in saving countless lives and hastening the end of World War II in the Pacific, the President is authorized—

(A) to award to each of the original 29 Navajo Code Talkers, or a surviving family member, on behalf of the Congress, a gold medal of appropriate design, honoring the Navajo Code Talkers; and

(B) to award to each person who qualified as a Navajo Code Talker (MOS 642), or a surviving family member, on behalf of the Congress, a silver medal of appropriate design, honoring the Navajo Code Talkers.

(2) For purposes of the awards authorized by paragraph (1), the Secretary of the Treasury (in this section referred to as the "Secretary") shall strike gold and silver medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) The Secretary may strike and sell duplicates in bronze of the medals struck pursuant to this section, under such regulations as the Secretary may prescribe, and a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the medals.

(d) The medals struck pursuant to this section are national medals for purposes of chapter 51, of title 31, United States Code.

(e)(1) There is authorized to be charged against the United States Mint Public Enterprise Fund, such sums as may be necessary to pay for the costs of the medals authorized by this section.

(2) Amounts received from the sale of duplicate medals under this section shall be deposited in the United States Mint Public Enterprise Fund.

TITLE XII

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

SEC. 1201. ABOVEGROUND STORAGE TANK GRANT PROGRAM.

(a) DEFINITIONS.—In this provision:

(1) ABOVEGROUND STORAGE TANK.—The term "aboveground storage tank" means any tank or combination of tanks (including any connected pipe)—

(A) that is used to contain an accumulation of regulated substances; and

(B) the volume of which (including the volume of any connected pipe) is located wholly above the surface of the ground.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(3) DENALI COMMISSION.—The term "Denali Commission" means the commission established by section 303(a) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note).

(4) FEDERAL ENVIRONMENTAL LAW.—The term "Federal environmental law" means—

(A) the Oil Pollution Control Act of 1990 (33 U.S.C. 2701 et seq.);

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(C) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(D) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); or

(E) any other Federal law that is applicable to the release into the environment of a regulated substance, as determined by the Administrator.

(5) NATIVE VILLAGE.—The term "Native village" has the meaning given the term in section 11(b) in Public Law 92–203 (85 Stat. 688).

(6) PROGRAM.—The term "program" means the Aboveground Storage Tank Grant Program established by subsection (b)(1).

(7) REGULATED SUBSTANCE.—The term "regulated substance" has the meaning given the term in section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991).

(8) STATE.—The term "State" means the State of Alaska.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a grant program to be known as the "Aboveground Storage Tank Grant Program".

(2) GRANTS.—Under the program, the Administrator shall award a grant to—

(A) the State, on behalf of a Native village; or

(B) the Denali Commission.

(c) USE OF GRANTS.—The State or the Denali Commission shall use the funds of a grant under subsection (b) to repair, upgrade, or replace one or more aboveground storage tanks that—

(1) leaks or poses an imminent threat of leaking, as certified by the Administrator, the Commandant of the Coast Guard, or any other appropriate Federal or State agency (as determined by the Administrator); and

(2) is located in a Native village—

(A) the median household income of which is less than 80 percent of the median household income in the State;

(B) that is located—

(i) within the boundaries of—

(I) a unit of the National Park System;

(II) a unit of the National Wildlife Refuge System; or

(III) a National Forest; or

(ii) on public land under the administrative jurisdiction of the Bureau of Land Management; or

(C) that receives payments from the Federal Government under chapter 69 of title 31, United States Code (commonly known as "payments in lieu of taxes").

(d) REPORTS.—Not later than 1 year after the date on which the State or the Denali Commission receives a grant under subsection (c), and annually thereafter, the State or the Denali Commission, as the case may be, shall submit a report describing each project completed with grant funds and any projects planned for the following year, to—

(1) the Administrator;

(2) the Committee on Resources of the House of Representatives;

(3) the Committee on Environment and Public Works of the Senate;

(4) the Committee on Appropriations of the House of Representatives; and

(5) the Committee on Appropriations of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act, to remain available until expended—

(1) $20,000,000 for fiscal year 2001; and

(2) such sums as are necessary for each fiscal year thereafter.

TITLE XIII

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ADMINISTRATIVE PROVISION

SEC. 1301. Of the proceeds in any fiscal year from the sale of timber on Federal property at the John C. Stennis Space Center, or on additional real property within the restricted easement area adjacent to the Center, any funds that are in excess of the amount necessary for the expenses of commonly accepted forest management practices on such properties may be retained and used by the National Aeronautics and Space Administration for the acquisition from willing sellers of up to a total of 500 acres of real property to establish education and visitor programs and facilities that promote and preserve the regional and national history of the area, including the contributions of Stennis Space Center, and, as necessary, for wetlands mitigation.

TITLE XIV—CERTAIN ALASKAN CRUISE SHIP OPERATIONS

SEC. 1401. PURPOSE.

The purpose of this title is to:

(1) Ensure that cruise vessels operating in the waters of the Alexander Archipelago and the navigable waters of the United States within the State of Alaska and within the Kachemak Bay National Estuarine Research Reserve comply with all applicable environmental laws, including, but not limited to, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Act to Prevent Pollution from Ships, as amended (33 U.S.C. 1901 et seq.), and the protections contained within this title.

(2) Ensure that cruise vessels do not discharge untreated sewage within the waters of the Alexander Archipelago, the navigable waters of the United States in the State of Alaska, or within the Kachemak Bay National Estuarine Research Reserve.

(3) Prevent the unregulated discharge of treated sewage and graywater while in ports in the State of Alaska or traveling near the shore in the Alexander Archipelago and the navigable waters of the United States in the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

(4) Ensure that discharges of sewage and graywater from cruise vessels operating in the Alexander Archipelago and the navigable waters of the United States in the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve can be monitored for compliance with the requirements contained in this title.

SEC. 1402. APPLICABILITY.

This title applies to all cruise vessels authorized to carry 500 or more passengers for hire.

SEC. 1403. PROHIBITION ON DISCHARGE OF UNTREATED SEWAGE.

No person shall discharge any untreated sewage from a cruise vessel into the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

SEC. 1404. LIMITATIONS ON DISCHARGE OF TREATED SEWAGE OR GRAYWATER.

(a) No person shall discharge any treated sewage or graywater from a cruise vessel into the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve unless—

(1) the cruise vessel is underway and proceeding at a speed of not less than six knots;

(2) the cruise vessel is not less than one nautical mile from the nearest shore, except in areas designated by the Secretary, in consultation with the State of Alaska;

(3) the discharge complies with all applicable cruise vessel effluent standards established pursuant to this title and any other applicable law; and

(4) the cruise vessel is not in an area where the discharge of treated sewage or graywater is prohibited.

(b) The Administrator, in consultation with the Secretary, may promulgate regulations allowing the discharge of treated sewage or graywater, otherwise prohibited under paragraphs (a)(1) and (a)(2) of this section, where the discharge meets effluent standards determined by the Administrator as appropriate for discharges into the marine environment. In promulgating such regulations, the Administrator shall take into account the best available scientific information on the environmental effects of the regulated discharges. The effluent discharge standards promulgated under this section shall, at a minimum, be consistent with all relevant State of Alaska water quality standards in force at the time of the enactment of this title.

(c) Until such time as the Administrator promulgates regulations under paragraph (b) of this section, treated sewage and graywater may be discharged from vessels subject to this title in circumstances otherwise prohibited under paragraphs (a)(1) and (a)(2) of this section, provided that—

(1) the discharge satisfies the minimum level of effluent quality specified in 40 CFR 133.102, as in effect on the date of enactment of this section;

(2) the geometric mean of the samples from the discharge during any 30-day period does not exceed 20 fecal coliform/100 ml and not more than 10 percent of the samples exceed 40 fecal coliform/100 ml;

(3) concentrations of total residual chlorine may not exceed 10.0 μg/l; and

(4) prior to any such discharge occurring, the owner, operator or master, or other person in charge of a cruise vessel, can demonstrate test results from at least five samples taken from the vessel representative of the effluent to be discharged, on different days over a 30-day period, conducted in accordance with the guidelines promulgated by the Administrator in 40 CFR Part 136, which confirm that the water quality of the effluents proposed for discharge is in compliance with paragraphs (1), (2), and (3) of this subsection. To the extent not otherwise being done by the owner, operator, master or other person in charge of a cruise vessel pursuant to section 1406, the owner, operator, master or other person in charge of a cruise vessel shall demonstrate continued compliance through periodic sampling. Such sampling and test results shall be considered environmental compliance records that must be made available for inspection pursuant to section 1406(d) of this title.

SEC. 1405. SAFETY EXCEPTION.

Sections 1403 and 1404 of this title shall not apply to discharges made for the purpose of securing the safety of the cruise vessel or saving life at sea, provided that all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge.

SEC. 1406. INSPECTION AND SAMPLING REGIME.

(a) The Secretary shall incorporate into the commercial vessel examination program an inspection regime sufficient to verify that cruise vessels visiting ports in the State of Alaska or operating in the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve are in full

compliance with this title, the Federal Water Pollution Control Act, as amended, and any regulations issued thereunder, other applicable Federal laws and regulations, and all applicable international treaty requirements.

(b) The inspection regime shall, at a minimum, include—

(1) examination of environmental compliance records and procedures; and

(2) inspection of the functionality and proper operation of installed equipment for abatement and control of any discharge.

(c) The inspection regime may—

(1) include unannounced inspections of any aspect of cruise vessel operations, equipment or discharges pertinent to the verification under subsection (a) of this section; and

(2) require the owner, operator or master, or other person in charge of a cruise vessel subject to this title to maintain and produce a logbook detailing the times, types, volumes or flow rates and locations of any discharges of sewage or graywater under this title.

(d) The inspection regime shall incorporate a plan for sampling and testing cruise vessel discharges to ensure that any discharges of sewage or graywater are in compliance with this title, the Federal Water Pollution Control Act, as amended, and any other applicable laws and regulations, and may require the owner, operator or master, or other person in charge of a cruise vessel subject to this title to conduct such samples or tests, and to produce any records of such sampling or testing at the request of the Secretary or Administrator.

SEC. 1407. CRUISE VESSEL EFFLUENT STANDARDS.

Pursuant to this title and the authority of the Federal Water Pollution Control Act, as amended, the Administrator may promulgate effluent standards for treated sewage and graywater from cruise vessels operating in the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve. Regulations implementing such standards shall take into account the best available scientific information on the environmental effects of the regulated discharges and the availability of new technologies for wastewater treatment. Until such time as the Administrator promulgates such effluent standards, treated sewage effluent discharges shall not have a fecal coliform bacterial count of greater than 200 per 100 milliliters nor suspended solids greater than 150 milligrams per liter.

SEC. 1408. REPORTS.

(a) Any owner, operator or master, or other person in charge of a cruise vessel who has knowledge of a discharge from the cruise vessel in violation of section 1403 or 1404 or pursuant to section 1405 of this title, or any regulations promulgated thereunder, shall immediately report that discharge to the Secretary, who shall provide a copy to the Administrator upon request.

(b) The Secretary may prescribe the form of reports required under this section.

SEC. 1409. ENFORCEMENT.

(a) ADMINISTRATIVE PENALTIES.—

(1) VIOLATIONS.—Any person who violates section 1403, 1404, 1408, or 1413 of this title, or any regulations promulgated pursuant to this title may be assessed a class I or class II civil penalty by the Secretary or Administrator.

(2) CLASSES OF PENALTIES.—

(A) CLASS I.—The amount of a class I civil penalty under this section may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this section shall not exceed $25,000. Before assessing a civil penalty under this clause, the Secretary or Administrator, as the case may be, shall give to the person to be assessed such penalty written notice of the Secretary's or Administrator's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to section 554 or 556 of title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

(B) CLASS II.—The amount of a class II civil penalty under this section may not exceed $10,000 per day for each day during which the violation continues, except that the maximum amount of any class II civil penalty under this section shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions as in the case of civil penalties assessed and collected after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Secretary and Administrator may issue rules for discovery procedures for hearings under this paragraph.

(3) RIGHTS OF INTERESTED PERSONS.—

(A) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under this section, the Secretary or Administrator, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of each order.

(B) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a class II civil penalty under this section shall be given notice of any hearing held under this paragraph and of the order assessing such penalty. In any hearing held under this paragraph, such person shall have a reasonable opportunity to be heard and present evidence.

(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under subsection (2) before issuance of an order assessing a class II civil penalty under this section, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with subsection (2)(B). If the Administrator or Secretary denies a hearing under

this clause, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

(4) FINALITY OF ORDER.—An order assessing a class II civil penalty under this paragraph shall become final 30 days after its issuance unless a petition for judicial review is filed under subparagraph (6) or a hearing is requested under subsection (3)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

(5) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or Secretary under this paragraph shall affect any person's obligation to comply with any section of this title.

(6) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this paragraph or who commented on the proposed assessment of such penalty in accordance with subsection (3) may obtain review of such assessment—

(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the District of Alaska; or

(B) in the case of assessment of a class II civil penalty, in the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business, by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or Secretary, as the case may be, and the Attorney General. The Administrator or Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

(7) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

(A) after the assessment has become final, or

(B) after a court in an action brought under subsection (6) has entered a final judgment in favor of the Administrator or Secretary, as the case may be, the Administrator or Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this subparagraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such

nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

(8) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this section. In case of contumacy or refusal to obey a subpoena issued pursuant to this subsection and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator or Secretary or to appear and produce documents before the Administrator or Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who violates section 1403, 1404, 1408, or 1413 of this title, or any regulations promulgated pursuant to this title shall be subject to a civil penalty not to exceed $25,000 per day for each violation. Each day a violation continues constitutes a separate violation.

(2) JURISDICTION.—An action to impose a civil penalty under this section may be brought in the district court of the United States for the district in which the defendant is located, resides, or transacts business, and such court shall have jurisdiction to assess such penalty.

(3) LIMITATION.—A person is not liable for a civil judicial penalty under this paragraph for a violation if the person has been assessed a civil administrative penalty under paragraph (a) for the violation.

(c) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under paragraphs (a) or (b) of this section, the court, the Secretary or the Administrator, as the case may be, shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and other such matters as justice may require.

(d) CRIMINAL PENALTIES.—

(1) NEGLIGENT VIOLATIONS.—Any person who negligently violates section 1403, 1404, 1408, or 1413 of this title, or any regulations promulgated pursuant to this title commits a Class A misdemeanor.

(2) KNOWING VIOLATIONS.—Any person who knowingly violates section 1403, 1404, 1408, or 1413 of this title, or any regulations promulgated pursuant to this title commits a Class D felony.

(3) FALSE STATEMENTS.—Any person who knowingly makes any false statement, representation, or certification in any record, report or other document filed or required to be maintained under this title or the regulations issued thereunder, or who falsifies, tampers with, or knowingly renders inaccurate any testing or monitoring device or method required to be

maintained under this title, or the regulations issued thereunder, commits a Class D felony.

(e) AWARDS.—

(1) The Secretary, the Administrator, or the court, when assessing any fines or civil penalties, as the case may be, may pay from any fines or civil penalties collected under this section an amount not to exceed one-half of the penalty or fine collected, to any individual who furnishes information which leads to the payment of the penalty or fine. If several individuals provide such information, the amount shall be divided equitably among such individuals. No officer or employee of the United States, the State of Alaska or any federally recognized Tribe who furnishes information or renders service in the performance of his or her official duties shall be eligible for payment under this subsection.

(2) The Secretary, Administrator or the court, when assessing any fines or civil penalties, as the case may be, may pay, from any fines or civil penalties collected under this section, to the State of Alaska or to any federally recognized Tribe providing information or investigative assistance which leads to payment of the penalty or fine, an amount which reflects the level of information or investigative assistance provided. Should the State of Alaska or a federally recognized Tribe and an individual under paragraph (1) of this section be eligible for an award, the Secretary, the Administrator, or the court, as the case may be, shall divide the amount equitably.

(f) LIABILITY IN REM.—A cruise vessel operated in violation of this title or the regulations issued thereunder is liable in rem for any fine imposed under subsection (d) of this section or for any civil penalty imposed under subsections (a) or (b) of this section, and may be proceeded against in the United States district court of any district in which the cruise vessel may be found.

(g) COMPLIANCE ORDERS.—

(1) IN GENERAL.—Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 1403, 1404, 1408, or 1413 of this title, or any regulations promulgated pursuant to this title, the Administrator shall issue an order requiring such person to comply with such section or requirement, or shall bring a civil action in accordance with subsection (b).

(2) COPIES OF ORDERS, SERVICE.—A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State of Alaska. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officer. Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed 30 days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(h) CIVIL ACTIONS.—The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized

to issue a compliance order under this subsection. Any action under subsection (h) may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the State of Alaska.

SEC. 1410. DESIGNATION OF CRUISE VESSEL NO-DISCHARGE ZONES.

If the State of Alaska determines that the protection and enhancement of the quality of some or all of the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve require greater environmental protection, the State of Alaska may petition the Administrator to prohibit the discharge of graywater and sewage from cruise vessels operating in such waters. The establishment of such a prohibition shall be achieved in the same manner as the petitioning process and prohibition of the discharge of sewage pursuant to section 312(f) of the Federal Water Pollution Control Act, as amended, and the regulations promulgated thereunder.

SEC. 1411. SAVINGS CLAUSE.

(a) Nothing in this title shall be construed as restricting, affecting, or amending any other law or the authority of any department, instrumentality, or agency of the United States.

(b) Nothing in this title shall in any way affect or restrict, or be construed to affect or restrict, the authority of the State of Alaska or any political subdivision thereof—

(1) to impose additional liability or additional requirements; or

(2) to impose, or determine the amount of a fine or penalty (whether criminal or civil in nature) for any violation of law; relating to the discharge of sewage (whether treated or untreated) or graywater in the waters of the Alexander Archipelago and the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

SEC. 1412. REGULATIONS.

The Secretary and the Administrator each may prescribe any regulations necessary to carry out the provisions of this title.

SEC. 1413. INFORMATION GATHERING AUTHORITY.

The authority of sections 308(a) and (b) of the Federal Water Pollution Control Act, as amended, shall be available to the Administrator to carry out the provisions of this title. The Administrator and the Secretary shall minimize, to the extent practicable, duplication of or inconsistency with the inspection, sampling, testing, recordkeeping, and reporting requirements established by the Secretary under section 1406 of this title.

SEC. 1414. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) CRUISE VESSEL.—The term "cruise vessel" means a passenger vessel as defined in section 2101(22) of title 46, United States Code. The term "cruise vessel" does not include a vessel of the United States operated by the Federal Government or a vessel owned and operated by the government of a State.

(3) DISCHARGE.—The term "discharge" means any release however caused from a cruise vessel, and includes any escape, disposal, spilling, leaking, pumping, emitting, or emptying.

(4) GRAYWATER.—The term "graywater" means only galley, dishwasher, bath, and laundry waste water. The term does not include other wastes or waste streams.

(5) NAVIGABLE WATERS.—The term "navigable waters" has the same meaning as in section 502 of the Federal Water Pollution Control Act, as amended.

(6) PERSON.—The term "person" means an individual, corporation, partnership, limited liability company, association, State, municipality, commission, or political subdivision of a State, or any federally recognized tribe.

(7) SECRETARY.—The term "Secretary" means the Secretary of the department in which the United States Coast Guard is operating.

(8) SEWAGE.—The term "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(9) TREATED SEWAGE.—The term "treated sewage" means sewage meeting all applicable effluent limitation standards and processing requirements of the Federal Water Pollution Control Act, as amended and of this title, and regulations promulgated under either.

(10) UNTREATED SEWAGE.—The term "untreated sewage" means sewage that is not treated sewage.

(11) WATERS OF THE ALEXANDER ARCHIPELAGO.—The term "waters of the Alexander Archipelago" means all waters under the sovereignty of the United States within or near Southeast Alaska, beginning at a point 58°11′41″N, 136°39′25″W [near Cape Spencer Light], thence southeasterly along a line three nautical miles seaward of the baseline from which the breadth of the territorial sea is measured in the Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics connecting the following five pairs of points:

(1) 58°05′17″N, 136°33′49″W and 58°11′41″N, 136°39′25″W [Cross Sound].

(2) 56°09′40″N, 134°40′00″W and 55°49′15″N, 134°17′40″W [Chatham Strait].

(3) 55°49′15″N, 134°17′40″W and 55°50′30″N, 133°54′15″W [Sumner Strait].

(4) 54°41′30″N, 132°01′00″W and 54°51″30″N, 131°20′45″W [Clarence Strait].

(5) 54°51′30″N, 131°20′45″W and 54°46′15″N, 130°52′00″W [Revillagigedo Channel].

The portion of each such geodesic situated beyond three nautical miles from the baseline from which the breadth of the territorial sea is measured forms the outer limit of the waters of the Alexander Archipelago in those five locations.

TITLE XV—LIFE ACT AMENDMENTS

SEC. 1501. SHORT TITLE.

This title may be cited as the "LIFE Act Amendments of 2000".

SEC. 1502. SUBSTITUTION OF ALTERNATIVE ADJUSTMENT PROVISION.

(a) EXTENDED APPLICATION OF SECTION 245(i).—

(1) IN GENERAL.—Paragraph (1) of section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is amended—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B)(i), by striking "January 14, 1998" and inserting "April 30, 2001";

(C) in subparagraph (B), by adding "and" at the end; and

(D) by inserting after subparagraph (B) the following new subparagraph:

"(C) who, in the case of a beneficiary of a petition for classification, or an application for labor certification, described in subparagraph (B) that was filed after January 14, 1998, is physically present in the United States on the date of the enactment of the LIFE Act Amendments of 2000;".

(2) MODIFICATION IN USE OF FUNDS.—Paragraph (3)(B) of such section is amended by inserting before the period the following: ", except that in the case of fees attributable to applications for a beneficiary with respect to whom a petition for classification, or an application for labor certification, described in paragraph (1)(B) was filed after January 14, 1998, one-half of such remaining portion shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 286(m)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (m) of section 245 of the Immigration and Nationality Act, as added by section 1102(c) of the Legal Immigration Family Equity Act, is repealed.

(2) Section 245 of the Immigration and Nationality Act, as amended by section 1102(d)(2) of the Legal Immigration Family Equity Act, is amended by striking "or (m)" each place it appears.

SEC. 1503. MODIFICATION OF SECTION 1104 ADJUSTMENT PROVISIONS.

(a) INCLUSION OF ADDITIONAL CLASS.—Section 1104(b) of the Legal Immigration Family Equity Act is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

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

"(3) Zambrano v. INS, vacated sub nom. Immigration and Naturalization Service v. Zambrano, 509 U.S. 918 (1993).".

(b) CONFORMING APPLICATION OF CONSENT PROVISION.—Section 1104(c) of the Legal Immigration Family Equity Act is amended by adding at the end the following new paragraph:

"(10) CONFORMING APPLICATION OF CONSENT PROVISION.—In addition to the waivers provided in subsection (d)(2) of such section 245A of the Immigration and Nationality Act, the Attorney General may grant the alien a waiver of the grounds of inadmissibility under subparagraphs (A) and (C)

of section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)). In granting such waivers, the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section.".

(c) INAPPLICABILITY OF REMOVAL ORDER REINSTATEMENT.—Section 1104 of such Act is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

"(g) INAPPLICABILITY OF REMOVAL ORDER REINSTATEMENT.—Section 241(a)(5) of the Immigration and Nationality Act shall not apply with respect to an alien who is applying for adjustment of status under this section.".

SEC. 1504. APPLICATION OF FAMILY UNITY PROVISIONS TO SPOUSES AND UNMARRIED CHILDREN OF CERTAIN LIFE ACT BENEFICIARIES.

(a) IMMIGRATION BENEFITS.—Except as provided in subsection (d), in the case of an eligible spouse or child (as described in subsection (b)), the Attorney General—

(1) shall not remove the alien on a ground specified in paragraph (1)(A), (1)(B), (1)(C), or (3)(A) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), other than so much of paragraph (1)(A) of such section as relates to a ground of inadmissibility described in paragraph (2) or (3) of section 212(a) of such Act (8 U.S.C. 1182(a)); and

(2) shall authorize the alien to engage in employment in the United States during the period of time in which protection is provided under paragraph (1) and shall provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment.

(b) ELIGIBLE SPOUSES AND CHILDREN.—For purposes of this section, the term "eligible spouse or child" means an alien who is the spouse or unmarried child of an alien described in section 1104(b) of the Legal Immigration Family Equity Act if the spouse or child—

(1) entered the United States before December 1, 1988; and

(2) resided in the United States on such date.

(c) PROCESS FOR RELIEF FOR ELIGIBLE SPOUSES AND CHILDREN OUTSIDE THE UNITED STATES.—If an alien has obtained lawful permanent resident status under section 1104 of the Legal Immigration Family Equity Act and the alien has an eligible spouse or child who is no longer physically present in the United States, the Attorney General shall establish a process under which the eligible spouse or child may be paroled into the United States in order to obtain the benefits of subsection (a) unless the Attorney General finds that the spouse or child would be inadmissible or deportable on any ground, other than a ground for which the alien would not be subject to removal under subsection (a)(1). An alien so paroled shall not be treated as paroled into the United States for purposes of section 201(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(4)).

(d) EXCEPTION.—An alien is not eligible for the benefits of this section if the Attorney General finds that—

(1) the alien has been convicted of a felony or three or more misdemeanors in the United States; or

(2) the alien is described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)).

(e) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

SEC. 1505. MISCELLANEOUS AMENDMENTS TO VARIOUS ADJUSTMENT AND RELIEF ACTS.

(a) NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.—

(1) IN GENERAL.—Section 202(a) of the Nicaraguan Adjustment and Central American Relief Act is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) RULES IN APPLYING CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

"(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

"(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).".

(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Cuba or Nicaragua who has become eligible for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.

(b) HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.—

(1) INAPPLICABILITY OF CERTAIN PROVISIONS.—Section 902(a) of the Haitian Refugee Immigration Fairness Act of 1998 is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

"(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

"(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).".

(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Haiti who has become eligible for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.

(c) SECTION 309 OF IIRIRA.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by adding at the end the following new subsection:

"(h) RELIEF AND MOTIONS TO REOPEN.—

"(1) RELIEF.—An alien described in subsection (c)(5)(C)(i) who is otherwise eligible for—

"(A) suspension of deportation pursuant to section 244(a) of the Immigration and Nationality Act, as in effect before the title III–A effective date; or

"(B) cancellation of removal, pursuant to section 240A(b) of the Immigration and Nationality Act and subsection (f) of this section;

shall not be barred from applying for such relief by operation of section 241(a)(5) of the Immigration and Nationality Act, as in effect after the title III–A effective date.

"(2) ADDITIONAL MOTION TO REOPEN PERMITTED.—Notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), any alien who is described in subsection (c)(5)(C)(i) and who has become eligible for cancellation of removal or suspension of deportation as a result of the enactment of paragraph (1) may file one motion to reopen removal or deportation proceedings in order to apply for cancellation of removal or suspension of deportation. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for cancellation of removal or suspension of deportation. The Attorney General shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of the enactment of this subsection and shall extend for a period not to exceed 240 days.

"(3) CONSTRUCTION.—Nothing in this subsection shall preclude an alien from filing a motion to reopen pursuant to section 240(b)(5)(C)(ii) of the Immigration and Nationality Act,

or section 242B(c)(3)(B) of such Act (as in effect before the title III–A effective date).".

SEC. 1506. EFFECTIVE DATE.

This title shall take effect as if included in the enactment of the Legal Immigration Family Equity Act.

TITLE XVI—IMPROVING LITERACY THROUGH FAMILY LITERACY PROJECTS

SEC. 1601. SHORT TITLE.

This title may be cited as the "Literacy Involves Families Together Act".

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

Section 1002(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302(b)) is amended by striking "$118,000,000 for fiscal year 1995" and inserting "$250,000,000 for fiscal year 2001".

SEC. 1603. IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

Section 1111(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(c)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) the State educational agency will encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.".

SEC. 1604. EVEN START FAMILY LITERACY PROGRAMS.

(a) PART HEADING.—The part heading for part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is amended to read as follows:

"PART B—WILLIAM F. GOODLING EVEN START FAMILY LITERACY PROGRAMS".

(b) STATEMENT OF PURPOSE.—Section 1201 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361) is amended—

(1) in paragraph (1), by inserting "high quality" after "build on"; and

(2) by amending paragraph (2) to read as follows:

"(2) promote the academic achievement of children and adults;";

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following:

"(4) use instructional programs based on scientifically based reading research (as defined in section 2252) and the prevention

of reading difficulties for children and adults, to the extent such research is available.".

(c) PROGRAM AUTHORIZED.—

(1) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—Section 1202(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(a)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting "(or, if such appropriated amount exceeds $200,000,000, 6 percent of such amount)" after "1002(b)";

(B) in paragraph (2), by striking "If the amount of funds made available under this subsection exceeds $4,600,000," and inserting "After the date of the enactment of the Literacy Involves Families Together Act,"; and

(C) by adding at the end the following:

"(3) COORDINATION OF PROGRAMS FOR AMERICAN INDIANS.—The Secretary shall ensure that programs under paragraph (1)(C) are coordinated with family literacy programs operated by the Bureau of Indian Affairs in order to avoid duplication and to encourage the dissemination of information on high quality family literacy programs serving American Indians.".

(2) RESERVATION FOR FEDERAL ACTIVITIES.—Section 1202(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(b)) is amended to read as follows:

"(b) RESERVATION FOR FEDERAL ACTIVITIES.—

"(1) EVALUATION, TECHNICAL ASSISTANCE, PROGRAM IMPROVEMENT, AND REPLICATION ACTIVITIES.—From amounts appropriated under section 1002(b), the Secretary may reserve not more than 3 percent of such amounts for purposes of—

"(A) carrying out the evaluation required by section 1209; and

"(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

"(2) RESEARCH.—In the case of fiscal years 2001 through 2004, if the amount appropriated under section 1002(b) for any of such years—

"(A) is equal to or less than the amounts appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multiyear activities carried out pursuant to section 1211(b) that began during or prior to the preceding fiscal year; or

"(B) exceeds the amount appropriated for the preceding fiscal year, the Secretary shall reserve from such excess amount $2,000,000 or 50 percent, whichever is less, to carry out section 1211(b).".

(d) RESERVATION FOR GRANTS.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended—

(1) by striking "From funds reserved under section 2260(b)(3), the Secretary shall award grants," and inserting "For any fiscal year for which at least one State applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 1002(b) exceeds the amount appropriated under such

section for the preceding fiscal year, the Secretary shall reserve, from the amount of such excess remaining after the application of subsection (b)(2), the amount of such remainder or $1,000,000, whichever is less, to award grants,"; and

(2) by adding at the end "No State may receive more than one grant under this subsection.".

(e) ALLOCATIONS.—Section 1202(d)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(d)(2)) is amended by striking "that section" and inserting "that part".

(f) STATE LEVEL ACTIVITIES.—Section 1203(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6363(a)) is amended—

(1) by striking "5 percent" and inserting "a total of 6 percent"; and

(2) in paragraph (1), by inserting before the semicolon the following: ", not to exceed half of such total".

(g) SUBGRANTS FOR LOCAL PROGRAMS.—Section 1203(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6363(b)(2)) is amended to read as follows:

"(2) MINIMUM SUBGRANT AMOUNTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no State shall award a subgrant under paragraph (1) in an amount less than $75,000.

"(B) SUBGRANTEES IN NINTH AND SUCCEEDING YEARS.—No State shall award a subgrant under paragraph (1) in an amount less than $52,500 to an eligible entity for a fiscal year to carry out an Even Start program that is receiving assistance under this part or its predecessor authority for the ninth (or any subsequent) fiscal year.

"(C) EXCEPTION FOR SINGLE SUBGRANT.—A State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in accordance with subparagraphs (A) and (B), less than $75,000 is available to the State to award such subgrants.".

(h) USES OF FUNDS.—Section 1204 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6364) is amended—

(1) in subsection (a), by striking "family-centered education programs" and inserting "family literacy services"; and

(2) by adding at the end the following:

"(c) USE OF FUNDS FOR FAMILY LITERACY SERVICES.—

"(1) IN GENERAL.—From funds reserved under section 1203(a), a State may use a portion of such funds to assist eligible entities receiving a subgrant under section 1203(b) in improving the quality of family literacy services provided under Even Start programs under this part, except that in no case may a State's use of funds for this purpose for a fiscal year result in a decrease from the level of activities and services provided to program participants in the preceding year.

"(2) PRIORITY.—In carrying out paragraph (1), a State shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State under section 1210.

"(3) TECHNICAL ASSISTANCE TO HELP LOCAL PROGRAMS RAISE ADDITIONAL FUNDS.—In carrying out paragraph (1), a State may use the funds referred to in such paragraph to provide

technical assistance to help local programs of demonstrated effectiveness to access and leverage additional funds for the purpose of expanding services and reducing waiting lists, including requesting and applying for non-Federal resources.

"(4) TECHNICAL ASSISTANCE AND TRAINING.—Assistance under paragraph (1) shall be in the form of technical assistance and training, provided by a State through a grant, contract, or cooperative agreement with an entity that has experience in offering high quality training and technical assistance to family literacy providers.".

(i) PROGRAM ELEMENTS.—Section 1205 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6365) is amended—

(1) by redesignating paragraphs (9) and (10) as paragraphs (14) and (15), respectively;

(2) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(3) by inserting after paragraph (4) the following:

"(5) with respect to the qualifications of staff the cost of whose salaries are paid, in whole or in part, with Federal funds provided under this part, ensure that—

"(A) not later than 4 years after the date of the enactment of the Literacy Involves Families Together Act—

"(i) a majority of the individuals providing academic instruction—

"(I) shall have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary or secondary school education, or adult education; and

"(II) if applicable, shall meet qualifications established by the State for early childhood education, elementary or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

"(ii) the individual responsible for administration of family literacy services under this part has received training in the operation of a family literacy program; and

"(iii) paraprofessionals who provide support for academic instruction have a high school diploma or its recognized equivalent; and

"(B) beginning on the date of the enactment of the Literacy Involves Families Together Act, all new personnel hired to provide academic instruction—

"(i) have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary or secondary school education, or adult education; and

"(ii) if applicable, meet qualifications established by the State for early childhood education, elementary or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;";

(4) in paragraph (8) (as so redesignated by paragraph (2), by striking "or enrichment" and inserting "and enrichment".

(5) by inserting after paragraph (9) (as so redesignated by paragraph (2)) the following:

"(10) use instructional programs based on scientifically based reading research (as defined in section 2252) for children and adults, to the extent such research is available;

"(11) encourage participating families to attend regularly and to remain in the program a sufficient time to meet their program goals;

"(12) include reading readiness activities for preschool children based on scientifically based reading research (as defined in section 2252), to the extent available, to ensure children enter school ready to learn to read;

"(13) if applicable, promote the continuity of family literacy to ensure that individuals retain and improve their educational outcomes"; and

(5) in paragraph (14) (as so redesignated), by striking "program." and inserting "program to be used for program improvement.".

(j) ELIGIBLE PARTICIPANTS.—Section 1206 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6366) is amended—

(1) in subsection (a)(1)(B) by striking "part;" and inserting "part, or who are attending secondary school;"; and

(2) in subsection (b), by adding at the end the following:

"(3) CHILDREN 8 YEARS OF AGE OR OLDER.—If an Even Start program assisted under this part collaborates with a program under part A, and funds received under such part A program contribute to paying the cost of providing programs under this part to children 8 years of age or older, the Even Start program, notwithstanding subsection (a)(2), may permit the participation of children 8 years of age or older if the focus of the program continues to remain on families with young children.".

(k) PLAN.—Section 1207(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6367(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "and continuous improvement" after "plan of operation";

(B) in subparagraph (A), by striking "goals;" and inserting "objectives, strategies to meet such objectives, and how they are consistent with the program indicators established by the State;";

(C) in subparagraph (E), by striking "and" at the end;

(D) in subparagraph (F)—

(i) by striking "Act, the Goals 2000: Educate America Act," and inserting "Act"; and

(ii) by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(G) a description of how the plan provides for rigorous and objective evaluation of progress toward the program objectives described in subparagraph (A) and for continuing use of evaluation data for program improvement."; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking "(1)(A)" and inserting "(1)".

(l) AWARD OF SUBGRANTS.—Section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)—

(i) by striking "including a high" and inserting "such as a high"; and

(ii) by striking "part A;" and inserting "part A, a high number or percentage of parents who have been victims of domestic violence, or a high number or percentage of parents who are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);";

(B) in paragraph (1)(F), by striking "Federal" and inserting "non-Federal";

(C) in paragraph (1)(H), by inserting "family literacy projects and other" before "local educational agencies"; and

(D) in paragraph (3), in the matter preceding subparagraph (A), by striking "one or more of the following individuals:" and inserting "one individual with expertise in family literacy programs, and may include other individuals, such as one or more of the following:"; and

(2) in subsection (b)—

(A) by striking paragraph (3) and inserting the following:

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part after the first year, the State educational agency shall review the progress of each eligible entity in meeting the objectives of the program referred to in section 1207(c)(1)(A) and shall evaluate the program based on the indicators of program quality developed by the State under section 1210."; and

(B) by amending paragraph (5)(B) to read as follows:

"(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section 1204(b).".

(m) RESEARCH.—Section 1211 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6369b) is amended—

(1) in subsection (b), by striking "subsection (a)" and inserting "subsections (a) and (b)";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) SCIENTIFICALLY BASED RESEARCH ON FAMILY LITERACY.—

"(1) IN GENERAL.—From amounts reserved under section 1202(b)(2), the National Institute for Literacy, in consultation with the Secretary, shall carry out research that—

"(A) is scientifically based reading research (as defined in section 2252); and

"(B) determines—

"(i) the most effective ways of improving the literacy skills of adults with reading difficulties; and

"(ii) how family literacy services can best provide parents with the knowledge and skills they need to support their children's literacy development.

"(2) USE OF EXPERT ENTITY.—The National Institute for Literacy, in consultation with the Secretary, shall carry out the research under paragraph (1) through an entity, including a Federal agency, that has expertise in carrying out longitudinal studies of the development of literacy skills in children and has developed effective interventions to help children with reading difficulties.".

(n) INDICATORS OF PROGRAM QUALITY.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall notify each State that receives funds under part B of title I of the Elementary and Secondary Education Act of 1965 that to be eligible to receive fiscal year 2001 funds under part B, such State shall submit to the Secretary, not later than June 30, 2001, its indicators of program quality as described in section 1210 of the Elementary and Secondary Education Act of 1965. A State that fails to comply with this subsection shall be ineligible to receive funds under such part in subsequent years unless such State submits to the Secretary, not later than June 30 of the year in which funds are requested, its indicators of program quality as described in section 1210 of the Elementary and Secondary Education Act of 1965.

SEC. 1605. EDUCATION OF MIGRATORY CHILDREN.

Section 1304(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6394(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children who have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.".

SEC. 1606. DEFINITIONS.

(a) IN GENERAL.—Section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) is amended—

(1) by redesignating paragraphs (15) through (29) as paragraphs (16) through (30), respectively; and

(2) by inserting after paragraph (14) the following:

"(15) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

"(C) Parent literacy training that leads to economic self-sufficiency.

"(D) An age-appropriate education to prepare children for success in school and life experiences.".

(b) CONFORMING AMENDMENTS.—

(1) EVEN START FAMILY LITERACY PROGRAMS.—Section 1202(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(e)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(2) READING AND LITERACY GRANTS.—(A) Section 2252 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661a) is amended—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

(B) Section 2260 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661i) is amendmed—

(i) in subsection (a), by striking "and section 1202(c)" each place it appears, and

(ii) in subsection (b)—

(I) in paragraph (1), by inserting "and" after the semicolon;

(II) in paragraph (2), by striking "; and " and inserting a period; and

(III) by striking paragraph (3).

SEC. 1607. INDIAN EDUCATION.

(a) EARLY CHILDHOOD DEVELOPMENT PROGRAM.—Section 1143 of the Education Amendments of 1978 (25 U.S.C. 2023) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A)—

(A) by striking "(f)" and inserting "(g)"; and

(B) by striking "(e))" and inserting "(f))";

(2) in subsection (d)(1)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following:

"(D) family literacy services,";

(3) in subsection (e), by striking "(f)," and inserting "(g),";

(4) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(5) by inserting after subsection (d) the following:

"(e) Family literacy programs operated under this section, and other family literacy programs operated by the Bureau of Indian Affairs, shall be coordinated with family literacy programs for American Indian children under part B of title I of the Elementary and Secondary Education Act of 1965 in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving American Indians.".

(b) DEFINITIONS.—Section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026) is amended—

(1) by redesignating paragraphs (7) through (14) as paragraphs (8) through (15), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) the term 'family literacy services' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);".

TITLE XVII—CHILDREN'S INTERNET PROTECTION

SEC. 1701. SHORT TITLE.

This title may be cited as the "Children's Internet Protection Act".

SEC. 1702. DISCLAIMERS.

(a) DISCLAIMER REGARDING CONTENT.—Nothing in this title or the amendments made by this title shall be construed to prohibit a local educational agency, elementary or secondary school, or library from blocking access on the Internet on computers owned or operated by that agency, school, or library to any content other than content covered by this title or the amendments made by this title.

(b) DISCLAIMER REGARDING PRIVACY.—Nothing in this title or the amendments made by this title shall be construed to require the tracking of Internet use by any identifiable minor or adult user.

SEC. 1703. STUDY OF TECHNOLOGY PROTECTION MEASURES.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—

(1) evaluating whether or not currently available technology protection measures, including commercial Internet blocking and filtering software, adequately addresses the needs of educational institutions;

(2) making recommendations on how to foster the development of measures that meet such needs; and

(3) evaluating the development and effectiveness of local Internet safety policies that are currently in operation after community input.

(b) DEFINITIONS.—In this section:

(1) TECHNOLOGY PROTECTION MEASURE.—The term "technology protection measure" means a specific technology that blocks or filters Internet access to visual depictions that are—

(A) obscene, as that term is defined in section 1460 of title 18, United States Code;

(B) child pornography, as that term is defined in section 2256 of title 18, United States Code; or

(C) harmful to minors.

(2) HARMFUL TO MINORS.—The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that—

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(3) SEXUAL ACT; SEXUAL CONTACT.—The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2246 of title 18, United States Code.

Subtitle A—Federal Funding for Educational Institution Computers

SEC. 1711. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.

Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended by adding at the end the following:

"PART F—LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS

"SEC. 3601. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS.

"(a) INTERNET SAFETY.—

"(1) IN GENERAL.—No funds made available under this title to a local educational agency for an elementary or secondary school that does not receive services at discount rates under section 254(h)(5) of the Communications Act of 1934, as added by section 1721 of Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

"(A)(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene;

"(II) child pornography; or

"(III) harmful to minors; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

"(B)(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene; or

"(II) child pornography; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers.

"(2) TIMING AND APPLICABILITY OF IMPLEMENTATION.—

"(A) IN GENERAL.—The local educational agency with responsibility for a school covered by paragraph (1) shall certify the compliance of such school with the requirements of paragraph (1) as part of the application process for the next program funding year under this Act following the effective date of this section, and for each subsequent program funding year thereafter.

"(B) PROCESS.—

"(i) SCHOOLS WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A local educational agency with responsibility for a school covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this Act.

"(ii) SCHOOLS WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A local educational agency with responsibility for a school covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

"(I) for the first program year after the effective date of this section in which the local educational agency is applying for funds for such school under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

"(II) for the second program year after the effective date of this section in which the local educational agency is applying for funds for such school under this Act, shall certify that such school is in compliance with such requirements.

Any school covered by paragraph (1) for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this title for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

"(iii) WAIVERS.—Any school subject to a certification under clause (ii)(II) for which the local educational agency concerned cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The local educational agency concerned shall notify the Secretary of the applicability of that clause to the school. Such notice shall certify that the school will be brought into compliance with the requirements in paragraph (1) before the start of the third program year after the effective date of this section in which the school is applying for funds under this title.

"(3) DISABLING DURING CERTAIN USE.—An administrator, supervisor, or person authorized by the responsible authority under paragraph (1) may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

"(4) NONCOMPLIANCE.—

"(A) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.—Whenever the Secretary has reason to believe that

any recipient of funds under this title is failing to comply substantially with the requirements of this subsection, the Secretary may—

"(i) withhold further payments to the recipient under this title,

"(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

"(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements,

in same manner as the Secretary is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act (20 U.S.C. 1234d).

"(B) RECOVERY OF FUNDS PROHIBITED.—The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this subsection, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

"(C) RECOMMENCEMENT OF PAYMENTS.—Whenever the Secretary determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments to the recipient under that subparagraph.

"(5) DEFINITIONS.—In this section:

"(A) COMPUTER.—The term 'computer' includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

"(B) ACCESS TO INTERNET.—A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network which has access to the Internet.

"(C) ACQUISITION OR OPERATION.—A elementary or secondary school shall be considered to have received funds under this title for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

"(i) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

"(ii) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

"(D) MINOR.—The term 'minor' means an individual who has not attained the age of 17.

"(E) CHILD PORNOGRAPHY.—The term 'child pornography' has the meaning given such term in section 2256 of title 18, United States Code.

"(F) HARMFUL TO MINORS.—The term 'harmful to minors' means any picture, image, graphic image file, or other visual depiction that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

"(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

"(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

"(G) OBSCENE.—The term 'obscene' has the meaning given such term in section 1460 of title 18, United States Code.

"(H) SEXUAL ACT; SEXUAL CONTACT.—The terms 'sexual act' and 'sexual contact' have the meanings given such terms in section 2246 of title 18, United States Code.

"(b) EFFECTIVE DATE.—This section shall take effect 120 days after the date of the enactment of the Children's Internet Protection Act.

"(c) SEPARABILITY.—If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.".

SEC. 1712. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR LIBRARIES.

(a) AMENDMENT.—Section 224 of the Museum and Library Services Act (20 U.S.C. 9134(b)) is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) provide assurances that the State will comply with subsection (f); and"; and

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

"(f) INTERNET SAFETY.—

"(1) IN GENERAL.—No funds made available under this Act for a library described in section 213(2)(A) or (B) that does not receive services at discount rates under section 254(h)(6) of the Communications Act of 1934, as added by section 1721 of this Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless—

"(A) such library—

"(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene;

"(II) child pornography; or

"(III) harmful to minors; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

"(B) such library—

"(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet

access that protects against access through such computers to visual depictions that are—

"(I) obscene; or

"(II) child pornography; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers.

"(2) ACCESS TO OTHER MATERIALS.—Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

"(3) DISABLING DURING CERTAIN USE.—An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

"(4) TIMING AND APPLICABILITY OF IMPLEMENTATION.—

"(A) IN GENERAL.—A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this Act following the effective date of this subsection, and for each subsequent program funding year thereafter.

"(B) PROCESS.—

"(i) LIBRARIES WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this Act.

"(ii) LIBRARIES WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

"(I) for the first program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

"(II) for the second program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this Act for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

"(iii) WAIVERS.—Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement

rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this Act.

"(5) NONCOMPLIANCE.—

"(A) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.—Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this Act is failing to comply substantially with the requirements of this subsection, the Director may—

"(i) withhold further payments to the recipient under this Act,

"(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

"(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

"(B) RECOVERY OF FUNDS PROHIBITED.—The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

"(C) RECOMMENCEMENT OF PAYMENTS.—Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

"(6) SEPARABILITY.—If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

"(7) DEFINITIONS.—In this section:

"(A) CHILD PORNOGRAPHY.—The term 'child pornography' has the meaning given such term in section 2256 of title 18, United States Code.

"(B) HARMFUL TO MINORS.—The term 'harmful to minors' means any picture, image, graphic image file, or other visual depiction that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

"(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

"(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

"(C) MINOR.—The term 'minor' means an individual who has not attained the age of 17.

"(D) OBSCENE.—The term 'obscene' has the meaning given such term in section 1460 of title 18, United States Code.

"(E) SEXUAL ACT; SEXUAL CONTACT.—The terms 'sexual act' and 'sexual contact' have the meanings given such terms in section 2246 of title 18, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 120 days after the date of the enactment of this Act.

Subtitle B—Universal Service Discounts

SEC. 1721. REQUIREMENT FOR SCHOOLS AND LIBRARIES TO ENFORCE INTERNET SAFETY POLICIES WITH TECHNOLOGY PROTECTION MEASURES FOR COMPUTERS WITH INTERNET ACCESS AS CONDITION OF UNIVERSAL SERVICE DISCOUNTS.

(a) SCHOOLS.—Section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

"(A) INTERNET SAFETY.—

"(i) IN GENERAL.—Except as provided in clause (ii), an elementary or secondary school having computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the school, school board, local educational agency, or other authority with responsibility for administration of the school—

"(I) submits to the Commission the certifications described in subparagraphs (B) and (C);

"(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the school under subsection (l); and

"(III) ensures the use of such computers in accordance with the certifications.

"(ii) APPLICABILITY.—The prohibition in clause (i) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

"(iii) PUBLIC NOTICE; HEARING.—An elementary or secondary school described in clause (i), or the school board, local educational agency, or other authority with responsibility for administration of the school, shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy. In the case of an elementary

or secondary school other than an elementary or secondary school as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), the notice and hearing required by this clause may be limited to those members of the public with a relationship to the school.

"(B) CERTIFICATION WITH RESPECT TO MINORS.—A certification under this subparagraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

"(i) is enforcing a policy of Internet safety for minors that includes monitoring the online activities of minors and the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene;

"(II) child pornography; or

"(III) harmful to minors; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors.

"(C) CERTIFICATION WITH RESPECT TO ADULTS.—A certification under this paragraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

"(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene; or

"(II) child pornography; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers.

"(D) DISABLING DURING ADULT USE.—An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

"(E) TIMING OF IMPLEMENTATION.—

"(i) IN GENERAL.—Subject to clause (ii) in the case of any school covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certification under subparagraphs (B) and (C) shall be made—

"(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

"(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

"(ii) PROCESS.—

"(I) SCHOOLS WITH INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A school covered by clause (i) that has in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certifications shall be made not later than 120 days after the beginning of such first program funding year.

"(II) SCHOOLS WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A school covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)—

"(aa) for the first program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

"(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any school that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such school comes into compliance with this paragraph.

"(III) WAIVERS.—Any school subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year program may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A school, school board, local educational agency, or other authority with responsibility for administration of the school shall notify the Commission of the applicability of such subclause to the school. Such notice shall certify that

the school in question will be brought into compliance before the start of the third program year after the effective date of this subsection in which the school is applying for funds under this subsection.

"(F) NONCOMPLIANCE.—

"(i) FAILURE TO SUBMIT CERTIFICATION.—Any school that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

"(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any school that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse any funds and discounts received under this subsection for the period covered by such certification.

"(iii) REMEDY OF NONCOMPLIANCE.—

"(I) FAILURE TO SUBMIT.—A school that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the school shall be eligible for services at discount rates under this subsection.

"(II) FAILURE TO COMPLY.—A school that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the school shall be eligible for services at discount rates under this subsection.".

(b) LIBRARIES.—Such section 254(h) is further amended by inserting after paragraph (5), as amended by subsection (a) of this section, the following new paragraph:

"(6) REQUIREMENTS FOR CERTAIN LIBRARIES WITH COMPUTERS HAVING INTERNET ACCESS.—

"(A) INTERNET SAFETY.—

"(i) IN GENERAL.—Except as provided in clause (ii), a library having one or more computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the library—

"(I) submits to the Commission the certifications described in subparagraphs (B) and (C); and

"(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the library under subsection (l); and

"(III) ensures the use of such computers in accordance with the certifications.

"(ii) APPLICABILITY.—The prohibition in clause (i) shall not apply with respect to a library that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

"(iii) PUBLIC NOTICE; HEARING.—A library described in clause (i) shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy.

"(B) CERTIFICATION WITH RESPECT TO MINORS.—A certification under this subparagraph is a certification that the library—

"(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene;

"(II) child pornography; or

"(III) harmful to minors; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors.

"(C) CERTIFICATION WITH RESPECT TO ADULTS.—A certification under this paragraph is a certification that the library—

"(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

"(I) obscene; or

"(II) child pornography; and

"(ii) is enforcing the operation of such technology protection measure during any use of such computers.

"(D) DISABLING DURING ADULT USE —An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

"(E) TIMING OF IMPLEMENTATION.—

"(i) IN GENERAL.—Subject to clause (ii) in the case of any library covered by this paragraph as of the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certification under subparagraphs (B) and (C) shall be made—

"(I) with respect to the first program funding year under this subsection following such effective date, not later than 120 days after the beginning of such program funding year; and

"(II) with respect to any subsequent program funding year, as part of the application process for such program funding year.

"(ii) PROCESS.—

"(I) LIBRARIES WITH INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by clause (i) that has in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B)

and (C) shall certify its compliance with subparagraphs (B) and (C) during each annual program application cycle under this subsection, except that with respect to the first program funding year after the effective date of this paragraph under section 1721(h) of the Children's Internet Protection Act, the certifications shall be made not later than 120 days after the beginning of such first program funding year.

"(II) LIBRARIES WITHOUT INTERNET SAFETY POLICY AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by clause (i) that does not have in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C)—

"(aa) for the first program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy and technology protection measures meeting the requirements necessary for certification under subparagraphs (B) and (C); and

"(bb) for the second program year after the effective date of this subsection in which it is applying for funds under this subsection, shall certify that it is in compliance with subparagraphs (B) and (C).

Any library that is unable to certify compliance with such requirements in such second program year shall be ineligible for services at discount rates or funding in lieu of services at such rates under this subsection for such second year and all subsequent program years under this subsection, until such time as such library comes into compliance with this paragraph.

"(III) WAIVERS.—Any library subject to subclause (II) that cannot come into compliance with subparagraphs (B) and (C) in such second year may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A library, library board, or other authority with responsibility for administration of the library shall notify the Commission of the applicability of such subclause to the library. Such notice shall certify that the library in question will be brought into compliance before the start of the third program year after the effective date of this subsection in which the library is applying for funds under this subsection.

"(F) NONCOMPLIANCE.—

"(i) FAILURE TO SUBMIT CERTIFICATION.—Any library that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for services at discount rates or funding in lieu of services at such rates under this subsection.

"(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any library that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraphs (B) and (C) shall reimburse all funds and discounts received under this subsection for the period covered by such certification.

"(iii) REMEDY OF NONCOMPLIANCE.—

"(I) FAILURE TO SUBMIT.—A library that has failed to submit a certification under clause (i) may remedy the failure by submitting the certification to which the failure relates. Upon submittal of such certification, the library shall be eligible for services at discount rates under this subsection.

"(II) FAILURE TO COMPLY.—A library that has failed to comply with a certification as described in clause (ii) may remedy the failure by ensuring the use of its computers in accordance with such certification. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the library shall be eligible for services at discount rates under this subsection.".

(c) DEFINITIONS.—Paragraph (7) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following:

"(D) MINOR.—The term 'minor' means any individual who has not attained the age of 17 years.

"(E) OBSCENE.—The term 'obscene' has the meaning given such term in section 1460 of title 18, United States Code.

"(F) CHILD PORNOGRAPHY.—The term 'child pornography' has the meaning given such term in section 2256 of title 18, United States Code.

"(G) HARMFUL TO MINORS.—The term 'harmful to minors' means any picture, image, graphic image file, or other visual depiction that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

"(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

"(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

"(H) SEXUAL ACT; SEXUAL CONTACT.—The terms 'sexual act' and 'sexual contact' have the meanings given such terms in section 2246 of title 18, United States Code.

"(I) TECHNOLOGY PROTECTION MEASURE.—The term 'technology protection measure' means a specific technology that blocks or filters Internet access to the material covered

by a certification under paragraph (5) or (6) to which such certification relates.".

(d) CONFORMING AMENDMENT.—Paragraph (4) of such section is amended by striking "paragraph (5)(A)" and inserting "paragraph (7)(A)".

(e) SEPARABILITY.—If any provision of paragraph (5) or (6) of section 254(h) of the Communications Act of 1934, as amended by this section, or the application thereof to any person or circumstance is held invalid, the remainder of such paragraph and the application of such paragraph to other persons or circumstances shall not be affected thereby.

(f) REGULATIONS.—

(1) REQUIREMENT.—The Federal Communications Commission shall prescribe regulations for purposes of administering the provisions of paragraphs (5) and (6) of section 254(h) of the Communications Act of 1934, as amended by this section.

(2) DEADLINE.—Notwithstanding any other provision of law, the Commission shall prescribe regulations under paragraph (1) so as to ensure that such regulations take effect 120 days after the date of the enactment of this Act.

(g) AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY PROTECTION MEASURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, funds available under section 3134 or part A of title VI of the Elementary and Secondary Education Act of 1965, or under section 231 of the Library Services and Technology Act, may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

(2) TECHNOLOGY PROTECTION MEASURE DEFINED.—In this section, the term "technology protection measure" has the meaning given that term in section 1703.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.

Subtitle C—Neighborhood Children's Internet Protection

SEC. 1731. SHORT TITLE.

This subtitle may be cited as the "Neighborhood Children's Internet Protection Act".

SEC. 1732. INTERNET SAFETY POLICY REQUIRED.

Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end the following:

"(l) INTERNET SAFETY POLICY REQUIREMENT FOR SCHOOLS AND LIBRARIES.—

"(1) IN GENERAL.—In carrying out its responsibilities under subsection (h), each school or library to which subsection (h) applies shall—

"(A) adopt and implement an Internet safety policy that addresses—

"(i) access by minors to inappropriate matter on the Internet and World Wide Web;

"(ii) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

"(iii) unauthorized access, including so-called 'hacking', and other unlawful activities by minors online;

"(iv) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and

"(v) measures designed to restrict minors' access to materials harmful to minors; and

"(B) provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy.

"(2) LOCAL DETERMINATION OF CONTENT.—A determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or other authority responsible for making the determination. No agency or instrumentality of the United States Government may—

"(A) establish criteria for making such determination;

"(B) review the determination made by the certifying school, school board, local educational agency, library, or other authority; or

"(C) consider the criteria employed by the certifying school, school board, local educational agency, library, or other authority in the administration of subsection (h)(1)(B).

"(3) AVAILABILITY FOR REVIEW.—Each Internet safety policy adopted under this subsection shall be made available to the Commission, upon request of the Commission, by the school, school board, local educational agency, library, or other authority responsible for adopting such Internet safety policy for purposes of the review of such Internet safety policy by the Commission.

"(4) EFFECTIVE DATE.—This subsection shall apply with respect to schools and libraries on or after the date that is 120 days after the date of the enactment of the Children's Internet Protection Act.".

SEC. 1733. IMPLEMENTING REGULATIONS.

Not later than 120 days after the date of enactment of this Act, the Federal Communications Commission shall prescribe regulations for purposes of section 254(l) of the Communications Act of 1934, as added by section 1732 of this Act.

Subtitle D—Expedited Review

SEC. 1741. EXPEDITED REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title or any amendment made by this title, or any provision thereof, shall be heard by a district

court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

This Act may be cited as the "Miscellaneous Appropriations Act, 2001".

ENDNOTE: Appendixes D–1 and D–2 were added pursuant to the provisions of sections 125 and 127 of this Appendix (114 Stat. 2763A–229).

APPENDIX D–1—S. 2273

SECTION 1. SHORT TITLE.

This Act may be cited as the "Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act of 2000".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The areas of northwestern Nevada known as the Black Rock Desert and High Rock Canyon contain and surround the last nationally significant, untouched segments of the historic California emigrant Trails, including wagon ruts, historic inscriptions, and a wilderness landscape largely unchanged since the days of the pioneers.

(2) The relative absence of development in the Black Rock Desert and high Rock Canyon areas from emigrant times to the present day offers a unique opportunity to capture the terrain, sights, and conditions of the overland trails as they were experienced by the emigrants and to make available to both present and future generations of Americans the opportunity of experiencing emigrant conditions in an unaltered setting.

(3) The Black Rock Desert and High Rock Canyon areas are unique segments of the Northern Great Basin and contain broad representation of the Great Basin's land forms and plant and animal species, including golden eagles and other birds of prey, sage grouse, mule deer, pronghorn antelope, bighorn sheep, free roaming horses and burros, threatened fish and sensitive plants.

(4) The Black Rock-High Rock region contains a number of cultural and natural resources that have been declared eligible for National Historic Landmark and Natural Landmark status, including a portion of the 1843–44 John Charles Fremont exploration route, the site of the death of Peter Lassen, early military facilities, and examples of early homesteading and mining.

(5) The archeological, paleontological, and geographical resources of the Black Rock-High Rock region include numerous prehistoric and historic Native American sites, wooly mammoth sites, some of the largest natural potholes of North America, and a remnant dry Pleistocene lakebed (playa) where the curvature of the Earth may be observed.

(6) The two large wilderness mosaics that frame the conservation area offer exceptional opportunities for solitude and serve to protect the integrity of the viewshed of the historic emigrant trails.

(7) Public lands in the conservation area have been used for domestic livestock grazing for over a century, with resultant benefits to community stability and contributions to the local and State economies. It has not been demonstrated that continuation of this use would be incompatible with appropriate protection and sound management of the resource values of these lands; therefore, it is expected that such grazing will continue in accordance with the management plan for the conservation area and other applicable laws and regulations.

(8) The Black Rock Desert playa is a unique natural resource that serves as the primary destination for the majority of visitors to the conservation area, including visitors associated with large-scale permitted events. It is expected that such permitted events will continue to be administered in accordance with the management plan for the conservation area and other applicable laws and regulations.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(3) The term "conservation area" means the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area established pursuant to section 4 of this Act.

SEC. 4. ESTABLISHMENT OF THE CONSERVATION AREA.

(a) ESTABLISHMENT AND PURPOSES.—In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, cultural, paleontological, scenic, scientific, biological, educational, wildlife, riparian, wilderness, endangered species, and recreational values and resources associated with the Applegate-Lassen and Nobles Trails corridors and surrounding areas, there is hereby established the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in the State of Nevada.

(b) AREAS INCLUDED.—The conservation area shall consist of approximately 797,100 acres of public lands as generally depicted on the map entitled "Black Rock Desert Emigrant Trail National Conservation Area" and dated July 19, 2000.

(c) MAPS AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a map and legal description of the conservation area. The map and legal description shall have the same force and effect as if included in this Act, except the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 5. MANAGEMENT.

(a) MANAGEMENT.—The Secretary, acting through the Bureau of Land Management, shall manage the conservation area in a manner that conserves, protects, and enhances its resources and values, including those resources and values specified in subsection 4(a), in accordance with this Act, the Federal Land Policy and

Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

(b) ACCESS.—

(1) IN GENERAL.—The Secretary shall maintain adequate access for the reasonable use and enjoyment of the conservation area.

(2) PRIVATE LAND.—The Secretary shall provide reasonable access to privately owned land or interests in land within the boundaries of the conservation area.

(3) EXISTING PUBLIC ROADS.—The Secretary is authorized to maintain existing public access within the boundaries of the conservation area in a manner consistent with the purposes for which the conservation area was established.

(c) USES.—

(1) IN GENERAL.—The Secretary shall only allow such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established.

(2) OFF-HIGHWAY VEHICLE USE.—Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the conservation area shall be permitted only on roads and trails and in other areas designated for use of motorized vehicles as part of the management plan prepared pursuant to subsection (e).

(3) PERMITTED EVENTS.—The Secretary may continue to permit large-scale events in defined, low impact areas of the Black Rock Desert playa in the conservation area in accordance with the management plan prepared pursuant to subsection (e).

(d) HUNTING, TRAPPING, AND FISHING.—Nothing in this Act shall be deemed to diminish the jurisdiction of the State of Nevada with respect to fish and wildlife management, including regulation of hunting and fishing, on public lands within the conservation area.

(e) MANAGEMENT PLAN.—Within three years following the date of enactment of this Act, the Secretary shall develop a comprehensive resource management plan for the long-term protection and management of the conservation area. The plan shall be developed with full public participation and shall describe the appropriate uses and management of the conservation area consistent with the provisions of this Act. The plan may incorporate appropriate decisions contained in any current management or activity plan for the area and may use information developed in previous studies of the lands within or adjacent to the conservation area.

(f) GRAZING.—Where the Secretary of the Interior currently permits livestock grazing in the conservation area, such grazing shall be allowed to continue subject to all applicable laws, regulations, and executive orders.

(g) VISITOR SERVICE FACILITIES.—The Secretary is authorized to establish, in cooperation with other public or private entities as the Secretary may deem appropriate, visitor service facilities for the purpose of providing information about the historical, cultural, ecological, recreational, and other resources of the conservation area.

SEC. 6. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are

hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, from operation of the mineral leasing and geothermal leasing laws and from the minerals materials laws and all amendments thereto.

SEC. 7. NO BUFFER ZONES.

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area consistent with other applicable laws.

SEC. 8. WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.), the following lands in the State of Nevada are designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Black Rock Desert Wilderness Study Area comprised of approximately 315,700 acres, as generally depicted on a map entitled "Black Rock Desert Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the Black Rock Desert Wilderness.

(2) Certain lands in the Pahute Peak Wilderness Study Area comprised of approximately 57,400 acres, as generally depicted on a map entitled "Pahute Peak Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the Pahute Peak Wilderness.

(3) Certain lands in the North Black Rock Range Wilderness Study Area comprised of approximately 30,800 acres, as generally depicted on a map entitled "North Black Rock Range Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the North Black Rock Range Wilderness.

(4) Certain lands in the East Fork High Rock Canyon Wilderness Study Area comprised of approximately 52,800 acres, as generally depicted on a map entitled "East Fork High Rock Canyon Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the East Fork High Rock Canyon Wilderness.

(5) Certain lands in the High Rock Lake Wilderness Study Area comprised of approximately 59,300 acres, as generally depicted on a map entitled "High Rock Lake Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the High Rock Lake Wilderness.

(6) Certain lands in the Little High Rock Canyon Wilderness Study Area comprised of approximately 48,700 acres, as generally depicted on a map entitled "Little High Rock Canyon Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the Little High Rock Canyon Wilderness.

(7) Certain lands in the High Rock Canyon Wilderness Study Area and Yellow Rock Canyon Wilderness Study Area comprised of approximately 46,600 acres, as generally depicted on a map entitled "High Rock Canyon Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the High Rock Canyon Wilderness.

(8) Certain lands in the Calico Mountains Wilderness Study Area comprised of approximately 65,400 acres, as generally depicted on a map entitled "Calico Mountains Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the Calico Mountains Wilderness.

(9) Certain lands in the South Jackson Mountains Wilderness Study Area comprised of approximately 56,800 acres, as generally depicted on a map entitled "South Jackson Mountains Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the South Jackson Mountains Wilderness.

(10) Certain lands in the North Jackson Mountains Wilderness Study Area comprised of approximately 24,000 acres, as generally depicted on a map entitled "North Jackson Mountains Wilderness—Proposed" and dated July 19, 2000, and which shall be known as the North Jackson Mountains Wilderness.

(b) ADMINISTRATION OF WILDERNESS AREAS.—Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) MAPS AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a map and legal description of the wilderness areas designated under this Act. The map and legal description shall have the same force and effect as if included in this Act, except the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) GRAZING.—Within the wilderness areas designated under subsection (a), the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 101(f) of Public Law 101–628.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

APPENDIX D–2—S. 2885

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jamestown 400th Commemoration Commission Act of 2000".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the founding of the colony at Jamestown, Virginia in 1607, the first permanent English colony in the New World, and the capital of Virginia for 92 years, has major significance in the history of the United States;

(2) the settlement brought people from throughout the Atlantic Basin together to form a multicultural society, including English, other Europeans, Native Americans, and Africans;

(3) the economic, political, religious, and social institutions that developed during the first 9 decades of the existence of Jamestown continue to have profound effects on the United States, particularly in English common law and language, cross cultural relationships, and economic structure and status;

(4) the National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia collectively own and operate significant resources related to the early history of Jamestown; and

(5) in 1996—

(A) the Commonwealth of Virginia designated the Jamestown-Yorktown Foundation as the State agency responsible for planning and implementing the Commonwealth's portion of the commemoration of the 400th anniversary of the founding of the Jamestown settlement;

(B) the Foundation created the Celebration 2007 Steering Committee, known as the Jamestown 2007 Steering Committee; and

(C) planning for the commemoration began.

(b) PURPOSE.—The purpose of this Act is to establish the Jamestown 400th Commemoration Commission to—

(1) ensure a suitable national observance of the Jamestown 2007 anniversary by complementing the programs and activities of the Commonwealth of Virginia;

(2) cooperate with and assist the programs and activities of the State in observance of the Jamestown 2007 anniversary;

(3) assist in ensuring that Jamestown 2007 observances provide an excellent visitor experience and beneficial interaction between visitors and the natural and cultural resources of the Jamestown sites;

(4) assist in ensuring that the Jamestown 2007 observances are inclusive and appropriately recognize the experiences of all people present in 17th century Jamestown;

(5) provide assistance to the development of Jamestown-related programs and activities;

(6) facilitate international involvement in the Jamestown 2007 observances;

(7) support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the Jamestown 2007 observances; and

(8) assist in the appropriate development of heritage tourism and economic benefits to the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMEMORATION.—The term "commemoration" means the commemoration of the 400th anniversary of the founding of the Jamestown settlement.

(2) COMMISSION.—The term "Commission" means the Jamestown 400th Commemoration Commission established by section 4(a).

(3) GOVERNOR.—The term "Governor" means the Governor of Virginia.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the Commonwealth of Virginia, including agencies and entities of the Commonwealth.

SEC. 4. JAMESTOWN 400TH COMMEMORATION COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the "Jamestown 400th Commemoration Commission".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) 4 members shall be appointed by the Secretary, taking into consideration the recommendations of the Chairperson of the Jamestown 2007 Steering Committee;

(B) 4 members shall be appointed by the Secretary, taking into consideration the recommendations of the Governor;

(C) 2 members shall be employees of the National Park Service, of which—

(i) 1 shall be the Director of the National Park Service (or a designee); and

(ii) 1 shall be an employee of the National Park Service having experience relevant to the commemoration, to be appointed by the Secretary; and

(D) 5 members shall be individuals that have an interest in, support for, and expertise appropriate to, the commemoration, to be appointed by the Secretary.

(2) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—

(i) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(ii) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet—

(i) at least twice each year; or

(ii) at the call of the Chairperson or the majority of the members of the Commission.

(B) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(4) VOTING.—

(A) IN GENERAL.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(B) QUORUM.—A majority of the Commission shall constitute a quorum.

(5) CHAIRPERSON.—The Secretary shall appoint a Chairperson of the Commission, taking into consideration any recommendations of the Governor.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) plan, develop, and execute programs and activities appropriate to commemorate the 400th anniversary of the founding of Jamestown;

(B) generally facilitate Jamestown-related activities throughout the United States;

(C) encourage civic, patriotic, historical, educational, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the founding and early history of Jamestown;

(D) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, Jamestown; and

(E) ensure that the 400th anniversary of Jamestown provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs and facilities.

(2) PLANS; REPORTS.—

(A) STRATEGIC PLAN; ANNUAL PERFORMANCE PLANS.—In accordance with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), the Commission shall prepare a strategic plan and annual performance plans for the activities of the Commission carried out under this Act.

(B) FINAL REPORT.—Not later than September 30, 2008, the Commission shall complete a final report that contains—

(i) a summary of the activities of the Commission;

(ii) a final accounting of funds received and expended by the Commission; and

(iii) the findings and recommendations of the Commission.

(d) POWERS OF THE COMMISSION.—The Commission may—

(1) accept donations and make dispersions of money, personal services, and real and personal property related to Jamestown and of the significance of Jamestown in the history of the United States;

(2) appoint such advisory committees as the Commission determines to be necessary to carry out this Act;

(3) authorize any member or employee of the Commission to take any action that the Commission is authorized to take by this Act;

(4) procure supplies, services, and property, and make or enter into contracts, leases or other legal agreements, to carry out this Act (except that any contracts, leases or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission);

(5) use the United States mails in the same manner and under the same conditions as other Federal agencies;

(6) subject to approval by the Commission, make grants in amounts not to exceed $10,000 to communities and nonprofit organizations to develop programs to assist in the commemoration;

(7) make grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of Jamestown; and

(8) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

(e) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS OF THE COMMISSION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Commission shall serve without compensation.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(C) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel

without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—

(A) FEDERAL EMPLOYEES.—

(i) IN GENERAL.—On the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) STATE EMPLOYEES.—The Commission may—

(i) accept the services of personnel detailed from States (including subdivisions of States); and

(ii) reimburse States for services of detailed personnel.

(5) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(6) SUPPORT SERVICES.—The Director of the National Park Service shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(g) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) NO EFFECT ON AUTHORITY.—Nothing in this section supersedes the authority of the State, the National Park Service, or the Association for the Preservation of Virginia Antiquities, concerning the commemoration.

(i) TERMINATION.—The Commission shall terminate on December 31, 2008.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

APPENDIX E—H.R. 5660

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commodity Futures Modernization Act of 2000".

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.

TITLE I—COMMODITY FUTURES MODERNIZATION

Sec. 101. Definitions.
Sec. 102. Agreements, contracts, and transactions in foreign currency, government securities, and certain other commodities.
Sec. 103. Legal certainty for excluded derivative transactions.
Sec. 104. Excluded electronic trading facilities.
Sec. 105. Hybrid instruments; swap transactions.
Sec. 106. Transactions in exempt commodities.
Sec. 107. Application of commodity futures laws.
Sec. 108. Protection of the public interest.
Sec. 109. Prohibited transactions.
Sec. 110. Designation of boards of trade as contract markets.
Sec. 111. Derivatives transaction execution facilities.
Sec. 112. Derivatives clearing.
Sec. 113. Common provisions applicable to registered entities.
Sec. 114. Exempt boards of trade.
Sec. 115. Suspension or revocation of designation as contract market.
Sec. 116. Authorization of appropriations.
Sec. 117. Preemption.
Sec. 118. Predispute resolution agreements for institutional customers.
Sec. 119. Consideration of costs and benefits and antitrust laws.
Sec. 120. Contract enforcement between eligible counterparties.
Sec. 121. Special procedures to encourage and facilitate bona fide hedging by agricultural producers.
Sec. 122. Rule of construction.
Sec. 123. Technical and conforming amendments.
Sec. 124. Privacy.
Sec. 125. Report to Congress.
Sec. 126. International activities of the Commodity Futures Trading Commission.

TITLE II—COORDINATED REGULATION OF SECURITY FUTURES PRODUCTS

Subtitle A—Securities Law Amendments

Sec. 201. Definitions under the Securities Exchange Act of 1934.
Sec. 202. Regulatory relief for markets trading security futures products.
Sec. 203. Regulatory relief for intermediaries trading security futures products.
Sec. 204. Special provisions for interagency cooperation.
Sec. 205. Maintenance of market integrity for security futures products.
Sec. 206. Special provisions for the trading of security futures products.
Sec. 207. Clearance and settlement.
Sec. 208. Amendments relating to registration and disclosure issues under the Securities Act of 1933 and the Securities Exchange Act of 1934.
Sec. 209. Amendments to the Investment Company Act of 1940 and the Investment Advisers Act of 1940.
Sec. 210. Preemption of State laws.

Subtitle B—Amendments to the Commodity Exchange Act

Sec. 251. Jurisdiction of Securities and Exchange Commission; other provisions.

Sec. 252. Application of the Commodity Exchange Act to national securities exchanges and national securities associations that trade security futures.
Sec. 253. Notification of investigations and enforcement actions.

TITLE III—LEGAL CERTAINTY FOR SWAP AGREEMENTS

Sec. 301. Swap agreement.
Sec. 302. Amendments to the Securities Act of 1933.
Sec. 303. Amendments to the Securities Exchange Act of 1934.
Sec. 304. Savings provision.

TITLE IV—REGULATORY RESPONSIBILITY FOR BANK PRODUCTS

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Exclusion of identified banking products commonly offered on or before December 5, 2000.
Sec. 404. Exclusion of certain identified banking products offered by banks after December 5, 2000.
Sec. 405. Exclusion of certain other identified banking products.
Sec. 406. Administration of the predominance test.
Sec. 407. Exclusion of covered swap agreements.
Sec. 408. Contract enforcement.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to reauthorize the appropriation for the Commodity Futures Trading Commission;

(2) to streamline and eliminate unnecessary regulation for the commodity futures exchanges and other entities regulated under the Commodity Exchange Act;

(3) to transform the role of the Commodity Futures Trading Commission to oversight of the futures markets;

(4) to provide a statutory and regulatory framework for allowing the trading of futures on securities;

(5) to clarify the jurisdiction of the Commodity Futures Trading Commission over certain retail foreign exchange transactions and bucket shops that may not be otherwise regulated;

(6) to promote innovation for futures and derivatives and to reduce systemic risk by enhancing legal certainty in the markets for certain futures and derivatives transactions;

(7) to reduce systemic risk and provide greater stability to markets during times of market disorder by allowing the clearing of transactions in over-the-counter derivatives through appropriately regulated clearing organizations; and

(8) to enhance the competitive position of United States financial institutions and financial markets.

TITLE I—COMMODITY FUTURES MODERNIZATION

SEC. 101. DEFINITIONS.

Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (1) through (7), (8) through (12), (13) through (15), and (16) as paragraphs (2) through (8), (16) through (20), (22) through (24), and (28), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) ALTERNATIVE TRADING SYSTEM.—The term 'alternative trading system' means an organization, association, or group of persons that—

"(A) is registered as a broker or dealer pursuant to section 15(b) of the Securities Exchange Act of 1934 (except paragraph (11) thereof);

"(B) performs the functions commonly performed by an exchange (as defined in section 3(a)(1) of the Securities Exchange Act of 1934);

"(C) does not—

"(i) set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on the alternative trading system; or

"(ii) discipline subscribers other than by exclusion from trading; and

"(D) is exempt from the definition of the term 'exchange' under such section 3(a)(1) by rule or regulation of the Securities and Exchange Commission on terms that require compliance with regulations of its trading functions.";

(3) by striking paragraph (2) (as redesignated by paragraph (1)) and inserting the following:

"(2) BOARD OF TRADE.—The term 'board of trade' means any organized exchange or other trading facility.";

(4) by inserting after paragraph (8) (as redesignated by paragraph (1)) the following:

"(9) DERIVATIVES CLEARING ORGANIZATION.—

"(A) IN GENERAL.—The term 'derivatives clearing organization' means a clearinghouse, clearing association, clearing corporation, or similar entity, facility, system, or organization that, with respect to an agreement, contract, or transaction—

"(i) enables each party to the agreement, contract, or transaction to substitute, through novation or otherwise, the credit of the derivatives clearing organization for the credit of the parties;

"(ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from such agreements, contracts, or transactions executed by participants in the derivatives clearing organization; or

"(iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the derivatives clearing organization the credit risk arising from such agreements, contracts, or transactions executed by the participants.

"(B) EXCLUSIONS.—The term 'derivatives clearing organization' does not include an entity, facility, system, or organization solely because it arranges or provides for—

"(i) settlement, netting, or novation of obligations resulting from agreements, contracts, or transactions, on a bilateral basis and without a central counterparty;

"(ii) settlement or netting of cash payments through an interbank payment system; or

"(iii) settlement, netting, or novation of obligations resulting from a sale of a commodity in a transaction in the spot market for the commodity.

"(10) ELECTRONIC TRADING FACILITY.—The term 'electronic trading facility' means a trading facility that—

"(A) operates by means of an electronic or telecommunications network; and

"(B) maintains an automated audit trail of bids, offers, and the matching of orders or the execution of transactions on the facility.

"(11) ELIGIBLE COMMERCIAL ENTITY.—The term 'eligible commercial entity' means, with respect to an agreement, contract or transaction in a commodity—

"(A) an eligible contract participant described in clause (i), (ii), (v), (vii), (viii), or (ix) of paragraph (12)(A) that, in connection with its business—

"(i) has a demonstrable ability, directly or through separate contractual arrangements, to make or take delivery of the underlying commodity;

"(ii) incurs risks, in addition to price risk, related to the commodity; or

"(iii) is a dealer that regularly provides risk management or hedging services to, or engages in market-making activities with, the foregoing entities involving transactions to purchase or sell the commodity or derivative agreements, contracts, or transactions in the commodity;

"(B) an eligible contract participant, other than a natural person or an instrumentality, department, or agency of a State or local governmental entity, that—

"(i) regularly enters into transactions to purchase or sell the commodity or derivative agreements, contracts, or transactions in the commodity; and

"(ii) either—

"(I) in the case of a collective investment vehicle whose participants include persons other than—

"(aa) qualified eligible persons, as defined in Commission rule 4.7(a) (17 CFR 4.7(a));

"(bb) accredited investors, as defined in Regulation D of the Securities and Exchange Commission under the Securities Act of 1933 (17 CFR 230.501(a)), with total assets of $2,000,000; or

"(cc) qualified purchasers, as defined in section 2(a)(51)(A) of the Investment Company Act of 1940;

in each case as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000, has, or is one of a group of vehicles under common control or management having in the aggregate, $1,000,000,000 in total assets; or

"(II) in the case of other persons, has, or is one of a group of persons under common control or management having in the aggregate, $100,000,000 in total assets; or

"(C) such other persons as the Commission shall determine appropriate and shall designate by rule, regulation, or order.

"(12) ELIGIBLE CONTRACT PARTICIPANT.—The term 'eligible contract participant' means—

"(A) acting for its own account—

"(i) a financial institution;

"(ii) an insurance company that is regulated by a State, or that is regulated by a foreign government and is subject to comparable regulation as determined by the Commission, including a regulated subsidiary or affiliate of such an insurance company;

"(iii) an investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) or a foreign person performing a similar role or function subject as such to foreign regulation (regardless of whether each investor in the investment company or the foreign person is itself an eligible contract participant);

"(iv) a commodity pool that—

"(I) has total assets exceeding $5,000,000; and

"(II) is formed and operated by a person subject to regulation under this Act or a foreign person performing a similar role or function subject as such to foreign regulation (regardless of whether each investor in the commodity pool or the foreign person is itself an eligible contract participant);

"(v) a corporation, partnership, proprietorship, organization, trust, or other entity—

"(I) that has total assets exceeding $10,000,000;

"(II) the obligations of which under an agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by an entity described in subclause (I), in clause (i), (ii), (iii), (iv), or (vii), or in subparagraph (C); or

"(III) that—

"(aa) has a net worth exceeding $1,000,000; and

"(bb) enters into an agreement, contract, or transaction in connection with the conduct of the entity's business or to manage the risk associated with an asset or liability owned or incurred or reasonably likely to be owned or incurred by the entity in the conduct of the entity's business;

"(vi) an employee benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), a governmental employee benefit plan, or a foreign person performing a similar role or function subject as such to foreign regulation—

"(I) that has total assets exceeding $5,000,000; or

"(II) the investment decisions of which are made by—

"(aa) an investment adviser or commodity trading advisor subject to regulation under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or this Act;

"(bb) a foreign person performing a similar role or function subject as such to foreign regulation;

"(cc) a financial institution; or

"(dd) an insurance company described in clause (ii), or a regulated subsidiary or affiliate of such an insurance company;

"(vii)(I) a governmental entity (including the United States, a State, or a foreign government) or political subdivision of a governmental entity;

"(II) a multinational or supranational government entity; or

"(III) an instrumentality, agency, or department of an entity described in subclause (I) or (II);

except that such term does not include an entity, instrumentality, agency, or department referred to in subclause (I) or (III) of this clause unless (aa) the entity, instrumentality, agency, or department is a person described in clause (i), (ii), or (iii) of section 1a(11)(A); (bb) the entity, instrumentality, agency, or department owns and invests on a discretionary basis $25,000,000 or more in investments; or (cc) the agreement, contract, or transaction is offered by, and entered into with, an entity that is listed in any of subclauses (I) through (VI) of section 2(c)(2)(B)(ii);

"(viii)(I) a broker or dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or a foreign person performing a similar role or function subject as such to foreign regulation, except that, if the broker or dealer or foreign person is a natural person or proprietorship, the broker or dealer or foreign person shall not be considered to be an eligible contract participant unless the broker or dealer or foreign person also meets the requirements of clause (v) or (xi);

"(II) an associated person of a registered broker or dealer concerning the financial or securities activities of which the registered person makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b), 78q(h));

"(III) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i));

"(ix) a futures commission merchant subject to regulation under this Act or a foreign person performing a similar role or function subject as such to foreign regulation, except that, if the futures commission merchant or foreign person is a natural person or proprietorship, the futures commission merchant or foreign person shall not be considered to be an eligible contract participant unless the futures commission merchant or foreign person also meets the requirements of clause (v) or (xi);

"(x) a floor broker or floor trader subject to regulation under this Act in connection with any transaction that takes place on or through the facilities of a registered entity or an exempt board of trade, or any affiliate thereof, on which such person regularly trades; or

"(xi) an individual who has total assets in an amount in excess of—

"(I) $10,000,000; or

"(II) $5,000,000 and who enters into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual;

"(B)(i) a person described in clause (i), (ii), (iv), (v), (viii), (ix), or (x) of subparagraph (A) or in subparagraph (C), acting as broker or performing an equivalent agency function on behalf of another person described in subparagraph (A) or (C); or

"(ii) an investment adviser subject to regulation under the Investment Advisers Act of 1940, a commodity trading advisor subject to regulation under this Act, a foreign person performing a similar role or function subject as such to foreign regulation, or a person described in clause (i), (ii), (iv), (v), (viii), (ix), or (x) of subparagraph (A) or in subparagraph (C), in any such case acting as investment manager or fiduciary (but excluding a person acting as broker or performing an equivalent agency function) for another person described in subparagraph (A) or (C) and who is authorized by such person to commit such person to the transaction; or

"(C) any other person that the Commission determines to be eligible in light of the financial or other qualifications of the person.

"(13) EXCLUDED COMMODITY.—The term 'excluded commodity' means—

"(i) an interest rate, exchange rate, currency, security, security index, credit risk or measure, debt or equity instrument, index or measure of inflation, or other macroeconomic index or measure;

"(ii) any other rate, differential, index, or measure of economic or commercial risk, return, or value that is—

"(I) not based in substantial part on the value of a narrow group of commodities not described in clause (i); or

"(II) based solely on one or more commodities that have no cash market;

"(iii) any economic or commercial index based on prices, rates, values, or levels that are not within the control of any party to the relevant contract, agreement, or transaction; or

"(iv) an occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or level of a commodity not described in clause (i)) that is—

"(I) beyond the control of the parties to the relevant contract, agreement, or transaction; and

"(II) associated with a financial, commercial, or economic consequence.

"(14) EXEMPT COMMODITY.—The term 'exempt commodity' means a commodity that is not an excluded commodity or an agricultural commodity.

"(15) FINANCIAL INSTITUTION.—The term 'financial institution' means—

"(A) a corporation operating under the fifth undesignated paragraph of section 25 of the Federal Reserve Act (12 U.S.C. 603), commonly known as 'an agreement corporation';

"(B) a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.), commonly known as an 'Edge Act corporation';

"(C) an institution that is regulated by the Farm Credit Administration;

"(D) a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

"(E) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

"(F) a foreign bank or a branch or agency of a foreign bank (each as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)));

"(G) any financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(H) a trust company; or

"(I) a similarly regulated subsidiary or affiliate of an entity described in any of subparagraphs (A) through (H).";

(5) by inserting after paragraph (20) (as redesignated by paragraph (1)) the following:

"(21) HYBRID INSTRUMENT.—The term 'hybrid instrument' means a security having one or more payments indexed to the value, level, or rate of, or providing for the delivery of, one or more commodities.";

(6) by striking paragraph (24) (as redesignated by paragraph (1)) and inserting the following:

"(24) MEMBER OF A CONTRACT MARKET; MEMBER OF A DERIVATIVES TRANSACTION EXECUTION FACILITY.—The term 'member' means, with respect to a contract market or derivatives transaction execution facility, an individual, association, partnership, corporation, or trust—

"(A) owning or holding membership in, or admitted to membership representation on, the contract market or derivatives transaction execution facility; or

"(B) having trading privileges on the contract market or derivatives transaction execution facility.

"(25) NARROW-BASED SECURITY INDEX.—

"(A) The term 'narrow-based security index' means an index—

"(i) that has 9 or fewer component securities;

"(ii) in which a component security comprises more than 30 percent of the index's weighting;

"(iii) in which the five highest weighted component securities in the aggregate comprise more than 60 percent of the index's weighting; or

"(iv) in which the lowest weighted component securities comprising, in the aggregate, 25 percent of the index's weighting have an aggregate dollar value of average daily trading volume of less than $50,000,000 (or in the case of an index with 15 or more component securities, $30,000,000), except that if there are two

or more securities with equal weighting that could be included in the calculation of the lowest weighted component securities comprising, in the aggregate, 25 percent of the index's weighting, such securities shall be ranked from lowest to highest dollar value of average daily trading volume and shall be included in the calculation based on their ranking starting with the lowest ranked security.

"(B) Notwithstanding subparagraph (A), an index is not a narrow-based security index if—

"(i)(I) it has at least 9 component securities;

"(II) no component security comprises more than 30 percent of the index's weighting; and

"(III) each component security is—

"(aa) registered pursuant to section 12 of the Securities Exchange Act of 1934;

"(bb) one of 750 securities with the largest market capitalization; and

"(cc) one of 675 securities with the largest dollar value of average daily trading volume;

"(ii) a board of trade was designated as a contract market by the Commodity Futures Trading Commission with respect to a contract of sale for future delivery on the index, before the date of the enactment of the Commodity Futures Modernization Act of 2000;

"(iii)(I) a contract of sale for future delivery on the index traded on a designated contract market or registered derivatives transaction execution facility for at least 30 days as a contract of sale for future delivery on an index that was not a narrow-based security index; and

"(II) it has been a narrow-based security index for no more than 45 business days over 3 consecutive calendar months;

"(iv) a contract of sale for future delivery on the index is traded on or subject to the rules of a foreign board of trade and meets such requirements as are jointly established by rule or regulation by the Commission and the Securities and Exchange Commission;

"(v) no more than 18 months have passed since the date of the enactment of the Commodity Futures Modernization Act of 2000 and—

"(I) it is traded on or subject to the rules of a foreign board of trade;

"(II) the offer and sale in the United States of a contract of sale for future delivery on the index was authorized before the date of the enactment of the Commodity Futures Modernization Act of 2000; and

"(III) the conditions of such authorization continue to be met; or

"(vi) a contract of sale for future delivery on the index is traded on or subject to the rules of a board of trade and meets such requirements as are jointly established by rule, regulation, or order by the Commission and the Securities and Exchange Commission.

"(C) Within 1 year after the date of the enactment of the Commodity Futures Modernization Act of 2000, the Commission and the Securities and Exchange Commission jointly shall adopt rules or regulations that set forth the requirements under subparagraph (B)(iv).

"(D) An index that is a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to clause (iii) of subparagraph (B) shall not be a narrow-based security index for the 3 following calendar months.

"(E) For purposes of subparagraphs (A) and (B)—

"(i) the dollar value of average daily trading volume and the market capitalization shall be calculated as of the preceding 6 full calendar months; and

"(ii) the Commission and the Securities and Exchange Commission shall, by rule or regulation, jointly specify the method to be used to determine market capitalization and dollar value of average daily trading volume.

"(26) OPTION.—The term 'option' means an agreement, contract, or transaction that is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'.

"(27) ORGANIZED EXCHANGE.—The term 'organized exchange' means a trading facility that—

"(A) permits trading—

"(i) by or on behalf of a person that is not an eligible contract participant; or

"(ii) by persons other than on a principal-to-principal basis; or

"(B) has adopted (directly or through another nongovernmental entity) rules that—

"(i) govern the conduct of participants, other than rules that govern the submission of orders or execution of transactions on the trading facility; and

"(ii) include disciplinary sanctions other than the exclusion of participants from trading."; and

(7) by adding at the end the following:

"(29) REGISTERED ENTITY.—The term 'registered entity' means—

"(A) a board of trade designated as a contract market under section 5;

"(B) a derivatives transaction execution facility registered under section 5a;

"(C) a derivatives clearing organization registered under section 5b; and

"(D) a board of trade designated as a contract market under section 5f.

"(30) SECURITY.—The term 'security' means a security as defined in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) or section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

"(31) SECURITY FUTURE.—The term 'security future' means a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except an exempted security

under section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of the enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 as in effect on the date of the enactment of the Futures Trading Act of 1982). The term 'security future' does not include any agreement, contract, or transaction excluded from this Act under section 2(c), 2(d), 2(f), or 2(g) of this Act (as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000) or title IV of the Commodity Futures Modernization Act of 2000.

"(32) SECURITY FUTURES PRODUCT.—The term 'security futures product' means a security future or any put, call, straddle, option, or privilege on any security future.

"(33) TRADING FACILITY.—

"(A) IN GENERAL.—The term 'trading facility' means a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions by accepting bids and offers made by other participants that are open to multiple participants in the facility or system.

"(B) EXCLUSIONS.—The term 'trading facility' does not include—

"(i) a person or group of persons solely because the person or group of persons constitutes, maintains, or provides an electronic facility or system that enables participants to negotiate the terms of and enter into bilateral transactions as a result of communications exchanged by the parties and not from interaction of multiple bids and multiple offers within a predetermined, nondiscretionary automated trade matching and execution algorithm;

"(ii) a government securities dealer or government securities broker, to the extent that the dealer or broker executes or trades agreements, contracts, or transactions in government securities, or assists persons in communicating about, negotiating, entering into, executing, or trading an agreement, contract, or transaction in government securities (as the terms 'government securities dealer', 'government securities broker', and 'government securities' are defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))); or

"(iii) facilities on which bids and offers, and acceptances of bids and offers effected on the facility, are not binding.

Any person, group of persons, dealer, broker, or facility described in clause (i) or (ii) is excluded from the meaning of the term 'trading facility' for the purposes of this Act without any prior specific approval, certification, or other action by the Commission.

"(C) SPECIAL RULE.—A person or group of persons that would not otherwise constitute a trading facility shall not be considered to be a trading facility solely as a result of the submission to a derivatives clearing organization

of transactions executed on or through the person or group of persons.".

SEC. 102. AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN FOREIGN CURRENCY, GOVERNMENT SECURITIES, AND CERTAIN OTHER COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is amended by adding at the end the following:

"(c) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN FOREIGN CURRENCY, GOVERNMENT SECURITIES, AND CERTAIN OTHER COMMODITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act (other than section 5a (to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)(B)) governs or applies to an agreement, contract, or transaction in—

"(A) foreign currency;

"(B) government securities;

"(C) security warrants;

"(D) security rights;

"(E) resales of installment loan contracts;

"(F) repurchase transactions in an excluded commodity; or

"(G) mortgages or mortgage purchase commitments.

"(2) COMMISSION JURISDICTION.—

"(A) AGREEMENTS, CONTRACTS, AND TRANSACTIONS TRADED ON AN ORGANIZED EXCHANGE.—This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction described in paragraph (1) that is—

"(i) a contract of sale of a commodity for future delivery (or an option on such a contract), or an option on a commodity (other than foreign currency or a security or a group or index of securities), that is executed or traded on an organized exchange; or

"(ii) an option on foreign currency executed or traded on an organized exchange that is not a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934.

"(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that—

"(i) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934); and

"(ii) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

"(I) a financial institution;

"(II) a broker or dealer registered under section 15(b) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5) or a futures commission merchant registered under this Act;

"(III) an associated person of a broker or dealer registered under section 15(b) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5), or an affiliated person of a futures commission merchant registered under this Act, concerning the financial or securities activities of which the registered person makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b), 78q(h)) or section 4f(c)(2)(B) of this Act;

"(IV) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated subsidiary or affiliate of such an insurance company;

"(V) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956); or

"(VI) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934).

"(C) Notwithstanding subclauses (II) and (III) of subparagraph (B)(ii), agreements, contracts, or transactions described in subparagraph (B) shall be subject to sections 4b, 4c(b), 6(c) and 6(d) (to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, and 8(a) if they are entered into by a futures commission merchant or an affiliate of a futures commission merchant that is not also an entity described in subparagraph (B)(ii) of this paragraph.".

SEC. 103. LEGAL CERTAINTY FOR EXCLUDED DERIVATIVE TRANSACTIONS.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is further amended by adding at the end the following:

"(d) EXCLUDED DERIVATIVE TRANSACTIONS.—

"(1) IN GENERAL.—Nothing in this Act (other than section 5b or 12(e)(2)(B) governs or applies to an agreement, contract, or transaction in an excluded commodity if—

"(A) the agreement, contract, or transaction is entered into only between persons that are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction; and

"(B) the agreement, contract, or transaction is not executed or traded on a trading facility.

"(2) ELECTRONIC TRADING FACILITY EXCLUSION.—Nothing in this Act (other than section 5a (to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)(B)) governs or applies to an agreement, contract, or transaction in an excluded commodity if—

"(A) the agreement, contract, or transaction is entered into on a principal-to-principal basis between parties trading for their own accounts or as described in section 1a(12)(B)(ii);

"(B) the agreement, contract, or transaction is entered into only between persons that are eligible contract participants described in subparagraph (A), (B)(ii), or (C) of section 1a(12)) at the time at which the persons enter into the agreement, contract, or transaction; and

"(C) the agreement, contract, or transaction is executed or traded on an electronic trading facility.".

SEC. 104. EXCLUDED ELECTRONIC TRADING FACILITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is further amended by adding at the end the following:

"(e) EXCLUDED ELECTRONIC TRADING FACILITIES.—

"(1) IN GENERAL.—Nothing in this Act (other than section 12(e)(2)(B)) governs or is applicable to an electronic trading facility that limits transactions authorized to be conducted on its facilities to those satisfying the requirements of section 2(d)(2), 2(g), or 2(h)(3).

"(2) EFFECT ON AUTHORITY TO ESTABLISH AND OPERATE.—Nothing in this Act shall prohibit a board of trade designated by the Commission as a contract market or derivatives transaction execution facility, or operating as an exempt board of trade from establishing and operating an electronic trading facility excluded under this Act pursuant to paragraph (1).

"(3) EFFECT ON TRANSACTIONS.—No failure by an electronic trading facility to limit transactions as required by paragraph (1) of this subsection or to comply with section 2(h)(5) shall in itself affect the legality, validity, or enforceability of an agreement, contract, or transaction entered into or traded on the electronic trading facility or cause a participant on the system to be in violation of this Act.

"(4) SPECIAL RULE.—A person or group of persons that would not otherwise constitute a trading facility shall not be considered to be a trading facility solely as a result of the submission to a derivatives clearing organization of transactions executed on or through the person or group of persons.".

SEC. 105. HYBRID INSTRUMENTS; SWAP TRANSACTIONS.

(a) HYBRID INSTRUMENTS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is further amended by adding at the end the following:

"(f) EXCLUSION FOR QUALIFYING HYBRID INSTRUMENTS.—

"(1) IN GENERAL.—Nothing in this Act (other than section 12(e)(2)(B)) governs or is applicable to a hybrid instrument that is predominantly a security.

"(2) PREDOMINANCE.—A hybrid instrument shall be considered to be predominantly a security if—

"(A) the issuer of the hybrid instrument receives payment in full of the purchase price of the hybrid instrument, substantially contemporaneously with delivery of the hybrid instrument;

"(B) the purchaser or holder of the hybrid instrument is not required to make any payment to the issuer in addition to the purchase price paid under subparagraph (A), whether as margin, settlement payment, or otherwise, during the life of the hybrid instrument or at maturity;

"(C) the issuer of the hybrid instrument is not subject by the terms of the instrument to mark-to-market margining requirements; and

"(D) the hybrid instrument is not marketed as a contract of sale of a commodity for future delivery (or option on such a contract) subject to this Act.

"(3) MARK-TO-MARKET MARGINING REQUIREMENTS.—For the purposes of paragraph (2)(C), mark-to-market margining requirements do not include the obligation of an issuer of a secured debt instrument to increase the amount of collateral held in pledge for the benefit of the purchaser of the secured debt instrument to secure the repayment obligations of the issuer under the secured debt instrument.".

(b) SWAP TRANSACTIONS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is further amended by adding at the end the following:

"(g) EXCLUDED SWAP TRANSACTIONS.—No provision of this Act (other than section 5a (to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)) shall apply to or govern any agreement, contract, or transaction in a commodity other than an agricultural commodity if the agreement, contract, or transaction is—

"(1) entered into only between persons that are eligible contract participants at the time they enter into the agreement, contract, or transaction;

"(2) subject to individual negotiation by the parties; and

"(3) not executed or traded on a trading facility.".

(c) STUDY REGARDING RETAIL SWAPS.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, the Secretary of the Treasury, the Commodity Futures Trading Commission, and the Securities and Exchange Commission shall conduct a study of issues involving the offering of swap agreements to persons other than eligible contract participants (as defined in section 1a of the Commodity Exchange Act).

(2) MATTERS TO BE ADDRESSED.—The study shall address—

(A) the potential uses of swap agreements by persons other than eligible contract participants;

(B) the extent to which financial institutions are willing to offer swap agreements to persons other than eligible contract participants;

(C) the appropriate regulatory structure to address customer protection issues that may arise in connection with the offer of swap agreements to persons other than eligible contract participants; and

(D) such other relevant matters deemed necessary or appropriate to address.

(3) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, a report on the findings and conclusions of the study required by paragraph (1) shall be submitted to Congress, together with such recommendations for legislative action as are deemed necessary and appropriate.

SEC. 106. TRANSACTIONS IN EXEMPT COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is further amended by adding at the end the following:

"(h) LEGAL CERTAINTY FOR CERTAIN TRANSACTIONS IN EXEMPT COMMODITIES.—

"(1) Except as provided in paragraph (2), nothing in this Act shall apply to a contract, agreement, or transaction in an exempt commodity which—

"(A) is entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction; and

"(B) is not entered into on a trading facility.

"(2) An agreement, contract, or transaction described in paragraph (1) of this subsection shall be subject to—

"(A) sections 5b and 12(e)(2)(B);

"(B) sections 4b, 4o, 6(c), 6(d), 6c, 6d, and 8a, and the regulations of the Commission pursuant to section 4c(b) proscribing fraud in connection with commodity option transactions, to the extent the agreement, contract, or transaction is not between eligible commercial entities (unless one of the entities is an instrumentality, department, or agency of a State or local governmental entity) and would otherwise be subject to such sections and regulations; and

"(C) sections 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2), to the extent such sections prohibit manipulation of the market price of any commodity in interstate commerce and the agreement, contract, or transaction would otherwise be subject to such sections.

"(3) Except as provided in paragraph (4), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity which is—

"(A) entered into on a principal-to-principal basis solely between persons that are eligible commercial entities at the time the persons enter into the agreement, contract, or transaction; and

"(B) executed or traded on an electronic trading facility.

"(4) An agreement, contract, or transaction described in paragraph (3) of this subsection shall be subject to—

"(A) sections 5a (to the extent provided in section 5a(g)), 5b, 5d, and 12(e)(2)(B);

"(B) sections 4b and 4o and the regulations of the Commission pursuant to section 4c(b) proscribing fraud in connection with commodity option transactions to the extent the agreement, contract, or transaction would otherwise be subject to such sections and regulations;

"(C) sections 6(c) and 9(a)(2), to the extent such sections prohibit manipulation of the market price of any commodity in interstate commerce and to the extent the agreement, contract, or transaction would otherwise be subject to such sections; and

"(D) such rules and regulations as the Commission may prescribe if necessary to ensure timely dissemination by the electronic trading facility of price, trading volume, and other trading data to the extent appropriate, if the Commission determines that the electronic trading facility performs a significant price discovery function for transactions in the cash market for the commodity underlying any agreement, contract, or transaction executed or traded on the electronic trading facility.

"(5) An electronic trading facility relying on the exemption provided in paragraph (3) shall—

"(A) notify the Commission of its intention to operate an electronic trading facility in reliance on the exemption set forth in paragraph (3), which notice shall include—

"(i) the name and address of the facility and a person designated to receive communications from the Commission;

"(ii) the commodity categories that the facility intends to list or otherwise make available for trading on the facility in reliance on the exemption set forth in paragraph (3);

"(iii) certifications that—

"(I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the facility is a person described in any of subparagraphs (A) through (H) of section 8a(2);

"(II) the facility will comply with the conditions for exemption under this paragraph; and

"(III) the facility will notify the Commission of any material change in the information previously provided by the facility to the Commission pursuant to this paragraph; and

"(iv) the identity of any derivatives clearing organization to which the facility transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the facility in reliance on the exemption set forth in paragraph (3);

"(B)(i)(I) provide the Commission with access to the facility's trading protocols and electronic access to the facility with respect to transactions conducted in reliance on the exemption set forth in paragraph (3); or

"(II) provide such reports to the Commission regarding transactions executed on the facility in reliance on the exemption set forth in paragraph (3) as the Commission may from time to time request to enable the Commission to satisfy its obligations under this Act;

"(ii) maintain for 5 years, and make available for inspection by the Commission upon request, records of activities related to its business as an electronic trading facility exempt under paragraph (3), including—

"(I) information relating to data entry and transaction details sufficient to enable the Commission to reconstruct trading activity on the facility conducted in reliance on the exemption set forth in paragraph (3); and

"(II) the name and address of each participant on the facility authorized to enter into transactions in reliance on the exemption set forth in paragraph (3); and

"(iii) upon special call by the Commission, provide to the Commission, in a form and manner and within the period specified in the special call, such information related to its business as an electronic trading facility exempt under paragraph (3), including information relating to data entry and transaction details in respect of transactions entered into in reliance on the exemption set forth in

paragraph (3), as the Commission may determine appropriate—

"(I) to enforce the provisions specified in subparagraphs (B) and (C) of paragraph (4);

"(II) to evaluate a systemic market event; or

"(III) to obtain information requested by a Federal financial regulatory authority in order to enable the regulator to fulfill its regulatory or supervisory responsibilities;

"(C)(i) upon receipt of any subpoena issued by or on behalf of the Commission to any foreign person who the Commission believes is conducting or has conducted transactions in reliance on the exemption set forth in paragraph (3) on or through the electronic trading facility relating to the transactions, promptly notify the foreign person of, and transmit to the foreign person, the subpoena in a manner reasonable under the circumstances, or as specified by the Commission; and

"(ii) if the Commission has reason to believe that a person has not timely complied with a subpoena issued by or on behalf of the Commission pursuant to clause (i), and the Commission in writing has directed that a facility relying on the exemption set forth in paragraph (3) deny or limit further transactions by the person, the facility shall deny that person further trading access to the facility or, as applicable, limit that person's access to the facility for liquidation trading only;

"(D) comply with the requirements of this paragraph applicable to the facility and require that each participant, as a condition of trading on the facility in reliance on the exemption set forth in paragraph (3), agree to comply with all applicable law;

"(E) have a reasonable basis for believing that participants authorized to conduct transactions on the facility in reliance on the exemption set forth in paragraph (3) are eligible commercial entities; and

"(F) not represent to any person that the facility is registered with, or designated, recognized, licensed, or approved by the Commission.

"(6) A person named in a subpoena referred to in paragraph (5)(C) that believes the person is or may be adversely affected or aggrieved by action taken by the Commission under this section, shall have the opportunity for a prompt hearing after the Commission acts under procedures that the Commission shall establish by rule, regulation, or order.".

SEC. 107. APPLICATION OF COMMODITY FUTURES LAWS.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 3, 4, 4a) is further amended by adding at the end the following:

"(i) APPLICATION OF COMMODITY FUTURES LAWS.—

"(1) No provision of this Act shall be construed as implying or creating any presumption that—

"(A) any agreement, contract, or transaction that is excluded from this Act under section 2(c), 2(d), 2(e), 2(f), or 2(g) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 2(h) or 4(c) of this Act; or

"(B) any agreement, contract, or transaction, not otherwise subject to this Act, that is not so excluded or exempted, is or would otherwise be subject to this Act.

"(2) No provision of, or amendment made by, the Commodity Futures Modernization Act of 2000 shall be construed as conferring jurisdiction on the Commission with respect to any such agreement, contract, or transaction, except as expressly provided in section 5a of this Act (to the extent provided in section 5a(g) of this Act), 5b of this Act, or 5d of this Act.".

SEC. 108. PROTECTION OF THE PUBLIC INTEREST.

The Commodity Exchange Act is amended by striking section 3 (7 U.S.C. 5) and inserting the following:

"SEC. 3. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The transactions subject to this Act are entered into regularly in interstate and international commerce and are affected with a national public interest by providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.

"(b) PURPOSE.—It is the purpose of this Act to serve the public interests described in subsection (a) through a system of effective self-regulation of trading facilities, clearing systems, market participants and market professionals under the oversight of the Commission. To foster these public interests, it is further the purpose of this Act to deter and prevent price manipulation or any other disruptions to market integrity; to ensure the financial integrity of all transactions subject to this Act and the avoidance of systemic risk; to protect all market participants from fraudulent or other abusive sales practices and misuses of customer assets; and to promote responsible innovation and fair competition among boards of trade, other markets and market participants.".

SEC. 109. PROHIBITED TRANSACTIONS.

Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by striking "SEC. 4c." and all that follows through subsection (a) and inserting the following:

"SEC. 4c. PROHIBITED TRANSACTIONS.

"(a) IN GENERAL.—

"(1) PROHIBITION.—It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of a transaction described in paragraph (2) involving the purchase or sale of any commodity for future delivery (or any option on such a transaction or option on a commodity) if the transaction is used or may be used to—

"(A) hedge any transaction in interstate commerce in the commodity or the product or byproduct of the commodity;

"(B) determine the price basis of any such transaction in interstate commerce in the commodity; or

"(C) deliver any such commodity sold, shipped, or received in interstate commerce for the execution of the transaction.

"(2) TRANSACTION.—A transaction referred to in paragraph (1) is a transaction that—

"(A)(i) is, of the character of, or is commonly known to the trade as, a 'wash sale' or 'accommodation trade'; or

"(ii) is a fictitious sale; or

"(B) is used to cause any price to be reported, registered, or recorded that is not a true and bona fide price.".

SEC. 110. DESIGNATION OF BOARDS OF TRADE AS CONTRACT MARKETS.

The Commodity Exchange Act is amended—

(1) by redesignating section 5b (7 U.S.C. 7b) as section 5e; and

(2) by striking sections 5 and 5a (7 U.S.C. 7, 7a) and inserting the following:

"SEC. 5. DESIGNATION OF BOARDS OF TRADE AS CONTRACT MARKETS.

"(a) APPLICATIONS.—A board of trade applying to the Commission for designation as a contract market shall submit an application to the Commission that includes any relevant materials and records the Commission may require consistent with this Act.

"(b) CRITERIA FOR DESIGNATION.—

"(1) IN GENERAL.—To be designated as a contract market, the board of trade shall demonstrate to the Commission that the board of trade meets the criteria specified in this subsection.

"(2) PREVENTION OF MARKET MANIPULATION.—The board of trade shall have the capacity to prevent market manipulation through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

"(3) FAIR AND EQUITABLE TRADING.—The board of trade shall establish and enforce trading rules to ensure fair and equitable trading through the facilities of the contract market, and the capacity to detect, investigate, and discipline any person that violates the rules. The rules may authorize—

"(A) transfer trades or office trades;

"(B) an exchange of—

"(i) futures in connection with a cash commodity transaction;

"(ii) futures for cash commodities; or

"(iii) futures for swaps; or

"(C) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.

"(4) TRADE EXECUTION FACILITY.—The board of trade shall—

"(A) establish and enforce rules defining, or specifications detailing, the manner of operation of the trade execution facility maintained by the board of trade, including rules or specifications describing the operation of any electronic matching platform; and

"(B) demonstrate that the trade execution facility operates in accordance with the rules or specifications.

"(5) FINANCIAL INTEGRITY OF TRANSACTIONS.—The board of trade shall establish and enforce rules and procedures for

ensuring the financial integrity of transactions entered into by or through the facilities of the contract market, including the clearance and settlement of the transactions with a derivatives clearing organization.

"(6) DISCIPLINARY PROCEDURES.—The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

"(7) PUBLIC ACCESS.—The board of trade shall provide the public with access to the rules, regulations, and contract specifications of the board of trade.

"(8) ABILITY TO OBTAIN INFORMATION.—The board of trade shall establish and enforce rules that will allow the board of trade to obtain any necessary information to perform any of the functions described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.

"(c) EXISTING CONTRACT MARKETS.—A board of trade that is designated as a contract market on the date of the enactment of the Commodity Futures Modernization Act of 2000 shall be considered to be a designated contract market under this section.

"(d) CORE PRINCIPLES FOR CONTRACT MARKETS.—

"(1) IN GENERAL.—To maintain the designation of a board of trade as a contract market, the board of trade shall comply with the core principles specified in this subsection. The board of trade shall have reasonable discretion in establishing the manner in which it complies with the core principles.

"(2) COMPLIANCE WITH RULES.—The board of trade shall monitor and enforce compliance with the rules of the contract market, including the terms and conditions of any contracts to be traded and any limitations on access to the contract market.

"(3) CONTRACTS NOT READILY SUBJECT TO MANIPULATION.—The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.

"(4) MONITORING OF TRADING.—The board of trade shall monitor trading to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process.

"(5) POSITION LIMITATIONS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

"(6) EMERGENCY AUTHORITY.—The board of trade shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority to—

"(A) liquidate or transfer open positions in any contract;

"(B) suspend or curtail trading in any contract; and

"(C) require market participants in any contract to meet special margin requirements.

"(7) AVAILABILITY OF GENERAL INFORMATION.—The board of trade shall make available to market authorities, market participants, and the public information concerning—

"(A) the terms and conditions of the contracts of the contract market; and

"(B) the mechanisms for executing transactions on or through the facilities of the contract market.

"(8) DAILY PUBLICATION OF TRADING INFORMATION.—The board of trade shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the contract market.

"(9) EXECUTION OF TRANSACTIONS.—The board of trade shall provide a competitive, open, and efficient market and mechanism for executing transactions.

"(10) TRADE INFORMATION.—The board of trade shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the contract market to use the information for purposes of assisting in the prevention of customer and market abuses and providing evidence of any violations of the rules of the contract market.

"(11) FINANCIAL INTEGRITY OF CONTRACTS.—The board of trade shall establish and enforce rules providing for the financial integrity of any contracts traded on the contract market (including the clearance and settlement of the transactions with a derivatives clearing organization), and rules to ensure the financial integrity of any futures commission merchants and introducing brokers and the protection of customer funds.

"(12) PROTECTION OF MARKET PARTICIPANTS.—The board of trade shall establish and enforce rules to protect market participants from abusive practices committed by any party acting as an agent for the participants.

"(13) DISPUTE RESOLUTION.—The board of trade shall establish and enforce rules regarding and provide facilities for alternative dispute resolution as appropriate for market participants and any market intermediaries.

"(14) GOVERNANCE FITNESS STANDARDS.—The board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the contract market, and any other persons with direct access to the facility (including any parties affiliated with any of the persons described in this paragraph).

"(15) CONFLICTS OF INTEREST.—The board of trade shall establish and enforce rules to minimize conflicts of interest in the decisionmaking process of the contract market and establish a process for resolving such conflicts of interest.

"(16) COMPOSITION OF BOARDS OF MUTUALLY OWNED CONTRACT MARKETS.—In the case of a mutually owned contract market, the board of trade shall ensure that the composition of the governing board reflects market participants.

"(17) RECORDKEEPING.—The board of trade shall maintain records of all activities related to the business of the contract market in a form and manner acceptable to the Commission for a period of 5 years.

"(18) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the board of trade shall endeavor to avoid—

"(A) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

"(B) imposing any material anticompetitive burden on trading on the contract market.

"(e) CURRENT AGRICULTURAL COMMODITIES.—

"(1) Subject to paragraph (2) of this subsection, a contract for purchase or sale for future delivery of an agricultural commodity enumerated in section 1a(4) that is available for trade on a contract market, as of the date of the enactment of this subsection, may be traded only on a contract market designated under this section.

"(2) In order to promote responsible economic or financial innovation and fair competition, the Commission, on application by any person, after notice and public comment and opportunity for hearing, may prescribe rules and regulations to provide for the offer and sale of contracts for future delivery or options on such contracts to be conducted on a derivatives transaction execution facility.".

SEC. 111. DERIVATIVES TRANSACTION EXECUTION FACILITIES.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5 (as amended by section 110(2)) the following:

"SEC. 5a. DERIVATIVES TRANSACTION EXECUTION FACILITIES.

"(a) IN GENERAL.—In lieu of compliance with the contract market designation requirements of sections 4(a) and 5, a board of trade may elect to operate as a registered derivatives transaction execution facility if the facility is—

"(1) designated as a contract market and meets the requirements of this section; or

"(2) registered as a derivatives transaction execution facility under subsection (c) of this section.

"(b) REQUIREMENTS FOR TRADING.—

"(1) IN GENERAL.—A registered derivatives transaction execution facility under subsection (a) may trade any contract of sale of a commodity for future delivery (or option on such a contract) on or through the facility only by satisfying the requirements of this section.

"(2) REQUIREMENTS FOR UNDERLYING COMMODITIES.—A registered derivatives transaction execution facility may trade any contract of sale of a commodity for future delivery (or option on such a contract) only if—

"(A) the underlying commodity has a nearly inexhaustible deliverable supply;

"(B) the underlying commodity has a deliverable supply that is sufficiently large that the contract is highly unlikely to be susceptible to the threat of manipulation;

"(C) the underlying commodity has no cash market;

"(D)(i) the contract is a security futures product, and (ii) the registered derivatives transaction execution facility is a national securities exchange registered under the Securities Exchange Act of 1934;

"(E) the Commission determines, based on the market characteristics, surveillance history, self-regulatory record, and capacity of the facility that trading in the contract (or option) is highly unlikely to be susceptible to the threat of manipulation; or

"(F) except as provided in section 5(e)(2), the underlying commodity is a commodity other than an agricultural

commodity enumerated in section 1a(4), and trading access to the facility is limited to eligible commercial entities trading for their own account.

"(3) ELIGIBLE TRADERS.—To trade on a registered derivatives transaction execution facility, a person shall—

"(A) be an eligible contract participant; or

"(B) be a person trading through a futures commission merchant that—

"(i) is registered with the Commission;

"(ii) is a member of a futures self-regulatory organization or, if the person trades only security futures products on the facility, a national securities association registered under section 15A(a) of the Securities Exchange Act of 1934;

"(iii) is a clearing member of a derivatives clearing organization; and

"(iv) has net capital of at least $20,000,000.

"(4) TRADING BY CONTRACT MARKETS.—A board of trade that is designated as a contract market shall, to the extent that the contract market also operates a registered derivatives transaction execution facility—

"(A) provide a physical location for the contract market trading of the board of trade that is separate from trading on the derivatives transaction execution facility of the board of trade; or

"(B) if the board of trade uses the same electronic trading system for trading on the contract market and derivatives transaction execution facility of the board of trade, identify whether the electronic trading is taking place on the contract market or the derivatives transaction execution facility.

"(c) CRITERIA FOR REGISTRATION.—

"(1) IN GENERAL.—To be registered as a registered derivatives transaction execution facility, the board of trade shall be required to demonstrate to the Commission only that the board of trade meets the criteria specified in subsection (b) and this subsection.

"(2) DETERRENCE OF ABUSES.—The board of trade shall establish and enforce trading and participation rules that will deter abuses and has the capacity to detect, investigate, and enforce those rules, including means to—

"(A) obtain information necessary to perform the functions required under this section; or

"(B) use technological means to—

"(i) provide market participants with impartial access to the market; and

"(ii) capture information that may be used in establishing whether rule violations have occurred.

"(3) TRADING PROCEDURES.—The board of trade shall establish and enforce rules or terms and conditions defining, or specifications detailing, trading procedures to be used in entering and executing orders traded on the facilities of the board of trade. The rules may authorize—

"(A) transfer trades or office trades;

"(B) an exchange of—

"(i) futures in connection with a cash commodity transaction;

"(ii) futures for cash commodities; or

"(iii) futures for swaps; or

"(C) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the registered derivatives transaction execution facility or a derivatives clearing organization.

"(4) FINANCIAL INTEGRITY OF TRANSACTIONS.—The board of trade shall establish and enforce rules or terms and conditions providing for the financial integrity of transactions entered on or through the facilities of the board of trade, and rules or terms and conditions to ensure the financial integrity of any futures commission merchants and introducing brokers and the protection of customer funds.

"(d) CORE PRINCIPLES FOR REGISTERED DERIVATIVES TRANSACTION EXECUTION FACILITIES.—

"(1) IN GENERAL.—To maintain the registration of a board of trade as a derivatives transaction execution facility, a board of trade shall comply with the core principles specified in this subsection. The board of trade shall have reasonable discretion in establishing the manner in which the board of trade complies with the core principles.

"(2) COMPLIANCE WITH RULES.—The board of trade shall monitor and enforce the rules of the facility, including any terms and conditions of any contracts traded on or through the facility and any limitations on access to the facility.

"(3) MONITORING OF TRADING.—The board of trade shall monitor trading in the contracts of the facility to ensure orderly trading in the contract and to maintain an orderly market while providing any necessary trading information to the Commission to allow the Commission to discharge the responsibilities of the Commission under the Act.

"(4) DISCLOSURE OF GENERAL INFORMATION.—The board of trade shall disclose publicly and to the Commission information concerning—

"(A) contract terms and conditions;

"(B) trading conventions, mechanisms, and practices;

"(C) financial integrity protections; and

"(D) other information relevant to participation in trading on the facility.

"(5) DAILY PUBLICATION OF TRADING INFORMATION.—The board of trade shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for contracts traded on the facility if the Commission determines that the contracts perform a significant price discovery function for transactions in the cash market for the commodity underlying the contracts.

"(6) FITNESS STANDARDS.—The board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members, and any other persons with direct access to the facility, including any parties affiliated with any of the persons described in this paragraph.

"(7) CONFLICTS OF INTEREST.—The board of trade shall establish and enforce rules to minimize conflicts of interest in the decision making process of the derivatives transaction

execution facility and establish a process for resolving such conflicts of interest.

"(8) RECORDKEEPING.—The board of trade shall maintain records of all activities related to the business of the derivatives transaction execution facility in a form and manner acceptable to the Commission for a period of 5 years.

"(9) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the board of trade shall endeavor to avoid—

"(A) adopting any rules or taking any actions that result in any unreasonable restraint of trade; or

"(B) imposing any material anticompetitive burden on trading on the derivatives transaction execution facility.

"(e) USE OF BROKER-DEALERS, DEPOSITORY INSTITUTIONS, AND FARM CREDIT SYSTEM INSTITUTIONS AS INTERMEDIARIES.—

"(1) IN GENERAL.—With respect to transactions other than transactions in security futures products, a registered derivatives transaction execution facility may by rule allow a broker-dealer, depository institution, or institution of the Farm Credit System that meets the requirements of paragraph (2) to—

"(A) act as an intermediary in transactions executed on the facility on behalf of customers of the broker-dealer, depository institution, or institution of the Farm Credit System; and

"(B) receive funds of customers to serve as margin or security for the transactions.

"(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are that—

"(A) the broker-dealer be in good standing with the Securities and Exchange Commission, or the depository institution or institution of the Farm Credit System be in good standing with Federal bank regulatory agencies (including the Farm Credit Administration), as applicable; and

"(B) if the broker-dealer, depository institution, or institution of the Farm Credit System carries or holds customer accounts or funds for transactions on the derivatives transaction execution facility for more than 1 business day, the broker-dealer, depository institution, or institution of the Farm Credit System is registered as a futures commission merchant and is a member of a registered futures association.

"(3) IMPLEMENTATION.—The Commission shall cooperate and coordinate with the Securities and Exchange Commission, the Secretary of the Treasury, and Federal banking regulatory agencies (including the Farm Credit Administration) in adopting rules and taking any other appropriate action to facilitate the implementation of this subsection.

"(f) SEGREGATION OF CUSTOMER FUNDS.—Not later than 180 days after the date of the enactment of the Commodity Futures Modernization Act of 2000, consistent with regulations adopted by the Commission, a registered derivatives transaction execution facility may authorize a futures commission merchant to offer any customer of the futures commission merchant that is an eligible contract participant the right to not segregate the customer funds

of the customer that are carried with the futures commission merchant for purposes of trading on or through the facilities of the registered derivatives transaction execution facility.

"(g) ELECTION TO TRADE EXCLUDED AND EXEMPT COMMODITIES.—

"(1) IN GENERAL.—Notwithstanding subsection (b)(2) of this section, a board of trade that is or elects to become a registered derivatives transaction execution facility may trade on the facility any agreements, contracts, or transactions involving excluded or exempt commodities other than securities, except contracts of sale for future delivery of exempt securities under section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of the enactment of the Futures Trading Act of 1982, that are otherwise excluded from this Act under section 2(c), 2(d), or 2(g) of this Act, or exempt under section 2(h) of this Act.

"(2) EXCLUSIVE JURISDICTION OF THE COMMISSION.—The Commission shall have exclusive jurisdiction over agreements, contracts, or transactions described in paragraph (1) to the extent that the agreements, contracts, or transactions are traded on a derivatives transaction execution facility.".

SEC. 112. DERIVATIVES CLEARING.

(a) IN GENERAL.—Subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(1) by inserting before the section heading for section 401, the following new heading:

"CHAPTER 1—BILATERAL AND CLEARING ORGANIZATION NETTING";

(2) in section 402, by striking "this subtitle" and inserting "this chapter"; and

(3) by inserting after section 407, the following new chapter:

"CHAPTER 2—MULTILATERAL CLEARING ORGANIZATIONS

"SEC. 408. DEFINITIONS.

For purposes of this chapter, the following definitions shall apply:

"(1) MULTILATERAL CLEARING ORGANIZATION.—The term 'multilateral clearing organization' means a system utilized by more than two participants in which the bilateral credit exposures of participants arising from the transactions cleared are effectively eliminated and replaced by a system of guarantees, insurance, or mutualized risk of loss.

"(2) OVER-THE-COUNTER DERIVATIVE INSTRUMENT.—The term 'over-the-counter derivative instrument' includes—

"(A) any agreement, contract, or transaction, including the terms and conditions incorporated by reference in any such agreement, contract, or transaction, which is an interest rate swap, option, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, and forward rate agreement; a same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, or forward agreement; an equity index or equity swap,

option, or forward agreement; a debt index or debt swap, option, or forward agreement; a credit spread or credit swap, option, or forward agreement; a commodity index or commodity swap, option, or forward agreement; and a weather swap, weather derivative, or weather option;

"(B) any agreement, contract or transaction similar to any other agreement, contract, or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into by parties that participate in swap transactions (including terms and conditions incorporated by reference in the agreement) and that is a forward, swap, or option on one or more occurrences of any event, rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic or other indices or measures of economic or other risk or value;

"(C) any agreement, contract, or transaction excluded from the Commodity Exchange Act under section 2(c), 2(d), 2(f), or 2(g) of such Act, or exempted under section 2(h) or 4(c) of such Act; and

"(D) any option to enter into any, or any combination of, agreements, contracts or transactions referred to in this subparagraph.

"(3) OTHER DEFINITIONS.—The terms 'insured State nonmember bank', 'State member bank', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"SEC. 409. MULTILATERAL CLEARING ORGANIZATIONS.

"(a) IN GENERAL.—Except with respect to clearing organizations described in subsection (b), no person may operate a multilateral clearing organization for over-the-counter derivative instruments, or otherwise engage in activities that constitute such a multilateral clearing organization unless the person is a national bank, a State member bank, an insured State nonmember bank, an affiliate of a national bank, a State member bank, or an insured State nonmember bank, or a corporation chartered under section 25A of the Federal Reserve Act.

"(b) CLEARING ORGANIZATIONS.—Subsection (a) shall not apply to any clearing organization that—

"(1) is registered as a clearing agency under the Securities Exchange Act of 1934;

"(2) is registered as a derivatives clearing organization under the Commodity Exchange Act; or

"(3) is supervised by a foreign financial regulator that the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as applicable, has determined satisfies appropriate standards.".

(b) RESOLUTION OF CLEARING BANKS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

"SEC. 9B. RESOLUTION OF CLEARING BANKS.

"(a) CONSERVATORSHIP OR RECEIVERSHIP.—

"(1) APPOINTMENT.—The Board may appoint a conservator or receiver to take possession and control of any uninsured

State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

"(2) POWERS.—The conservator or receiver for an uninsured State member bank referred to in paragraph (1) shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(b) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed under subsection (a), and the uninsured State member bank for which the conservator or receiver has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

"(c) BANKRUPTCY PROCEEDINGS.—The Board (in the case of an uninsured State member bank which operates, or operates as, such a multilateral clearing organization) may direct a conservator or receiver appointed for the bank to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the bank in lieu of otherwise applicable Federal or State insolvency law.".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 11, UNITED STATES CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking "; or" and inserting the following: ", except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or".

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

"(d) Only a railroad, a person that may be a debtor under chapter 7 of this title (except a stockbroker or a commodity broker), and an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor under chapter 11 of this title.".

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

"(22) the term 'financial institution'—

"(A) means—

"(i) a Federal reserve bank or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator, or entity is acting as agent or custodian for a customer in connection with a securities contract,

as defined in section 741 of this title, the customer; or

"(ii) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940; and

"(B) includes any person described in subparagraph (A) which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991;".

(4) DEFINITION OF UNINSURED STATE MEMBER BANK.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (54) the following new paragraph—

"(54A) the term 'uninsured State member bank' means a State member bank (as defined in section 3 of the Federal Deposit Insurance Act) the deposits of which are not insured by the Federal Deposit Insurance Corporation; and".

(5) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following new subsection:

"(e) SCOPE OF APPLICATION.—Subchapter V of chapter 7 of this title shall apply only in a case under such chapter concerning the liquidation of an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(B) CLEARING BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—CLEARING BANK LIQUIDATION

"§ 781. Definitions

"For purposes of this subchapter, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(3) CLEARING BANK.—The term 'clearing bank' means an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"§ 782. Selection of trustee

"(a) IN GENERAL.—

"(1) APPOINTMENT.—Notwithstanding any other provision of this title, the conservator or receiver who files the petition

shall be the trustee under this chapter, unless the Board designates an alternative trustee.

"(2) SUCCESSOR.—The Board may designate a successor trustee if required.

"(b) AUTHORITY OF TRUSTEE.—Whenever the Board appoints or designates a trustee, chapter 3 and sections 704 and 705 of this title shall apply to the Board in the same way and to the same extent that they apply to a United States trustee.

"§ 783. Additional powers of trustee

"(a) DISTRIBUTION OF PROPERTY NOT OF THE ESTATE.—The trustee under this subchapter has power to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and IV of this chapter.

"(b) DISPOSITION OF INSTITUTION.—The trustee under this subchapter may, after notice and a hearing—

"(1) sell the clearing bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the clearing bank among the consortium);

"(2) merge the clearing bank with a depository institution;

"(3) transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

"(4) transfer assets or liabilities to a depository institution; and

"(5) transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), and (6) of section 11(n) of the Federal Deposit Insurance Act, paragraphs (9) through (13) of such section, and subparagraphs (A) through (H) and subparagraph (K) of paragraph (4) of such section 11(n), except that—

"(A) the bridge bank to which such assets or liabilities are transferred shall be treated as a clearing bank for the purpose of this subsection; and

"(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

"(c) CERTAIN TRANSFERS INCLUDED.—Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

"§ 784. Right to be heard

"The Board or a Federal reserve bank (in the case of a clearing bank that is a member of that bank) may raise and may appear and be heard on any issue in a case under this subchapter.".

(6) DEFINITIONS OF CLEARING ORGANIZATION, CONTRACT MARKET, AND RELATED DEFINITIONS.—

(A) Section 761(2) of title 11, United States Code, is amended to read as follows:

"(2) 'clearing organization' means a derivatives clearing organization registered under the Act;".

(B) Section 761(7) of title 11, United States Code, is amended to read as follows:

"(7) 'contract market' means a registered entity;".

(C) Section 761(8) of title 11, United States Code, is amended to read as follows:

"(8) 'contract of sale', 'commodity', 'derivatives clearing organization', 'future delivery', 'board of trade', 'registered entity', and 'futures commission merchant' have the meanings assigned to those terms in the Act;".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER V—CLEARING BANK LIQUIDATION

"Sec.
"781. Definitions.
"782. Selection of trustee.
"783. Additional powers of trustee.
"784. Right to be heard.".

(e) RESOLUTION OF EDGE ACT CORPORATIONS.—The 16th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 624) is amended to read as follows:

"(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

"(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

"(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.".

(f) DERIVATIVES CLEARING ORGANIZATIONS.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5a, as added by section 111 of this Act, the following:

"SEC. 5b. DERIVATIVES CLEARING ORGANIZATIONS.

"(a) REGISTRATION REQUIREMENT.—It shall be unlawful for a derivatives clearing organization, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization described in section 1a(9) of this Act with respect to a contract of sale of a commodity for future delivery (or option on such a contract) or option on a commodity, in each case unless the contract or option—

"(1) is excluded from this Act by section 2(a)(1)(C)(i), 2(c), 2(d), 2(f), or 2(g) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 2(h) or 4(c) of this Act; or

"(2) is a security futures product cleared by a clearing agency registered under the Securities Exchange Act of 1934.

"(b) VOLUNTARY REGISTRATION.—A derivatives clearing organization that clears agreements, contracts, or transactions excluded from this Act by section 2(c), 2(d), 2(f), or 2(g) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 2(h) or 4(c) of this Act, or other over-the-counter derivative instruments (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991) may register with the Commission as a derivatives clearing organization.

"(c) REGISTRATION OF DERIVATIVES CLEARING ORGANIZATIONS.—

"(1) APPLICATION.—A person desiring to register as a derivatives clearing organization shall submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of making the determinations required for approval under paragraph (2).

"(2) CORE PRINCIPLES.—

"(A) IN GENERAL.—To be registered and to maintain registration as a derivatives clearing organization, an applicant shall demonstrate to the Commission that the applicant complies with the core principles specified in this paragraph. The applicant shall have reasonable discretion in establishing the manner in which it complies with the core principles.

"(B) FINANCIAL RESOURCES.—The applicant shall demonstrate that the applicant has adequate financial, operational, and managerial resources to discharge the responsibilities of a derivatives clearing organization.

"(C) PARTICIPANT AND PRODUCT ELIGIBILITY.—The applicant shall establish—

"(i) appropriate admission and continuing eligibility standards (including appropriate minimum financial requirements) for members of and participants in the organization; and

"(ii) appropriate standards for determining eligibility of agreements, contracts, or transactions submitted to the applicant.

"(D) RISK MANAGEMENT.—The applicant shall have the ability to manage the risks associated with discharging the responsibilities of a derivatives clearing organization through the use of appropriate tools and procedures.

"(E) SETTLEMENT PROCEDURES.—The applicant shall have the ability to—

"(i) complete settlements on a timely basis under varying circumstances;

"(ii) maintain an adequate record of the flow of funds associated with each transaction that the applicant clears; and

"(iii) comply with the terms and conditions of any permitted netting or offset arrangements with other clearing organizations.

"(F) TREATMENT OF FUNDS.—The applicant shall have standards and procedures designed to protect and ensure the safety of member and participant funds.

"(G) DEFAULT RULES AND PROCEDURES.—The applicant shall have rules and procedures designed to allow for efficient, fair, and safe management of events when members or participants become insolvent or otherwise default on their obligations to the derivatives clearing organization.

"(H) RULE ENFORCEMENT.—The applicant shall—

"(i) maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with rules of the applicant and for resolution of disputes; and

"(ii) have the authority and ability to discipline, limit, suspend, or terminate a member's or participant's activities for violations of rules of the applicant.

"(I) SYSTEM SAFEGUARDS.—The applicant shall demonstrate that the applicant—

"(i) has established and will maintain a program of oversight and risk analysis to ensure that the automated systems of the applicant function properly and have adequate capacity and security; and

"(ii) has established and will maintain emergency procedures and a plan for disaster recovery, and will periodically test backup facilities sufficient to ensure daily processing, clearing, and settlement of transactions.

"(J) REPORTING.—The applicant shall provide to the Commission all information necessary for the Commission to conduct the oversight function of the applicant with respect to the activities of the derivatives clearing organization.

"(K) RECORDKEEPING.—The applicant shall maintain records of all activities related to the business of the applicant as a derivatives clearing organization in a form and manner acceptable to the Commission for a period of 5 years.

"(L) PUBLIC INFORMATION.—The applicant shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) available to market participants.

"(M) INFORMATION-SHARING.—The applicant shall—

"(i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and

"(ii) use relevant information obtained from the agreements in carrying out the clearing organization's risk management program.

"(N) ANTITRUST CONSIDERATIONS.—Unless appropriate to achieve the purposes of this Act, the derivatives clearing organization shall avoid—

"(i) adopting any rule or taking any action that results in any unreasonable restraint of trade; or

"(ii) imposing any material anticompetitive burden on trading on the contract market.

"(3) ORDERS CONCERNING COMPETITION.—A derivatives clearing organization may request the Commission to issue

an order concerning whether a rule or practice of the applicant is the least anticompetitive means of achieving the objectives, purposes, and policies of this Act.

"(d) EXISTING DERIVATIVES CLEARING ORGANIZATIONS.—A derivatives clearing organization shall be deemed to be registered under this section to the extent that the derivatives clearing organization clears agreements, contracts, or transactions for a board of trade that has been designated by the Commission as a contract market for such agreements, contracts, or transactions before the date of the enactment of this section.

"(e) APPOINTMENT OF TRUSTEE.—

"(1) IN GENERAL.—If a proceeding under section 5e results in the suspension or revocation of the registration of a derivatives clearing organization, or if a derivatives clearing organization withdraws from registration, the Commission, on notice to the derivatives clearing organization, may apply to the appropriate United States district court where the derivatives clearing organization is located for the appointment of a trustee.

"(2) ASSUMPTION OF JURISDICTION.—If the Commission applies for appointment of a trustee under paragraph (1)—

"(A) the court may take exclusive jurisdiction over the derivatives clearing organization and the records and assets of the derivatives clearing organization, wherever located; and

"(B) if the court takes jurisdiction under subparagraph (A), the court shall appoint the Commission, or a person designated by the Commission, as trustee with power to take possession and continue to operate or terminate the operations of the derivatives clearing organization in an orderly manner for the protection of participants, subject to such terms and conditions as the court may prescribe.

"(f) LINKING OF REGULATED CLEARING FACILITIES.—

"(1) IN GENERAL.—The Commission shall facilitate the linking or coordination of derivatives clearing organizations registered under this Act with other regulated clearance facilities for the coordinated settlement of cleared transactions.

"(2) COORDINATION.—In carrying out paragraph (1), the Commission shall coordinate with the Federal banking agencies and the Securities and Exchange Commission.".

SEC. 113. COMMON PROVISIONS APPLICABLE TO REGISTERED ENTITIES.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5b (as added by section 112(f)) the following:

"SEC. 5c. COMMON PROVISIONS APPLICABLE TO REGISTERED ENTITIES.

"(a) ACCEPTABLE BUSINESS PRACTICES UNDER CORE PRINCIPLES.—

"(1) IN GENERAL.—Consistent with the purposes of this Act, the Commission may issue interpretations, or approve interpretations submitted to the Commission, of sections 5(d), 5a(d), and 5b(d)(2) to describe what would constitute an acceptable business practice under such sections.

"(2) EFFECT OF INTERPRETATION.—An interpretation issued under paragraph (1) shall not provide the exclusive means for complying with such sections.

"(b) DELEGATION OF FUNCTIONS UNDER CORE PRINCIPLES.—

"(1) IN GENERAL.—A contract market or derivatives transaction execution facility may comply with any applicable core principle through delegation of any relevant function to a registered futures association or another registered entity.

"(2) RESPONSIBILITY.—A contract market or derivatives transaction execution facility that delegates a function under paragraph (1) shall remain responsible for carrying out the function.

"(3) NONCOMPLIANCE.—If a contract market or derivatives transaction execution facility that delegates a function under paragraph (1) becomes aware that a delegated function is not being performed as required under this Act, the contract market or derivatives transaction execution facility shall promptly take steps to address the noncompliance.

"(c) NEW CONTRACTS, NEW RULES, AND RULE AMENDMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), a registered entity may elect to list for trading or accept for clearing any new contract or other instrument, or may elect to approve and implement any new rule or rule amendment, by providing to the Commission (and the Secretary of the Treasury, in the case of a contract of sale of a government security for future delivery (or option on such a contract) or a rule or rule amendment specifically related to such a contract) a written certification that the new contract or instrument or clearing of the new contract or instrument, new rule, or rule amendment complies with this Act (including regulations under this Act).

"(2) PRIOR APPROVAL.—

"(A) IN GENERAL.—A registered entity may request that the Commission grant prior approval to any new contract or other instrument, new rule, or rule amendment.

"(B) PRIOR APPROVAL REQUIRED.—Notwithstanding any other provision of this section, a designated contract market shall submit to the Commission for prior approval each rule amendment that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(4) (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.

"(C) DEADLINE.—If prior approval is requested under subparagraph (A), the Commission shall take final action on the request not later than 90 days after submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph.

"(3) APPROVAL.—The Commission shall approve any such new contract or instrument, new rule, or rule amendment unless the Commission finds that the new contract or instrument, new rule, or rule amendment would violate this Act.

"(d) VIOLATION OF CORE PRINCIPLES.—

"(1) IN GENERAL.—If the Commission determines, on the basis of substantial evidence, that a registered entity is violating any applicable core principle specified in section 5(d), 5a(d), or 5b(d)(2), the Commission shall—

"(A) notify the registered entity in writing of the determination; and

"(B) afford the registered entity an opportunity to make appropriate changes to bring the registered entity into compliance with the core principles.

"(2) FAILURE TO MAKE CHANGES.—If, not later than 30 days after receiving a notification under paragraph (1), a registered entity fails to make changes that, in the opinion of the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this Act.

"(e) RESERVATION OF EMERGENCY AUTHORITY.—Nothing in this section shall limit or in any way affect the emergency powers of the Commission provided in section 8a(9).".

SEC. 114. EXEMPT BOARDS OF TRADE.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5c (as added by section 113) the following:

"SEC. 5d. EXEMPT BOARDS OF TRADE.

"(a) ELECTION TO REGISTER WITH THE COMMISSION.—A board of trade that meets the requirements of subsection (b) of this section may operate as an exempt board of trade on receipt from the board of trade of a notice, provided in such manner as the Commission may by rule or regulation prescribe, that the board of trade elects to operate as an exempt board of trade. Except as otherwise provided in this section, no provision of this Act (other than subparagraphs (C) and (D) of sections 2(a)(1) and 12(e)(2)(B)) shall apply with respect to a contract of sale of a commodity for future delivery (or option on such a contract) traded on or through the facilities of an exempt board of trade.

"(b) CRITERIA FOR EXEMPTION.—To qualify for an exemption under subsection (a), a board of trade shall limit trading on or through the facilities of the board of trade to contracts of sale of a commodity for future delivery (or options on such contracts or on a commodity)—

"(1) for which the underlying commodity has—

"(A) a nearly inexhaustible deliverable supply;

"(B) a deliverable supply that is sufficiently large, and a cash market sufficiently liquid, to render any contract traded on the commodity highly unlikely to be susceptible to the threat of manipulation; or

"(C) no cash market;

"(2) that are entered into only between persons that are eligible contract participants at the time at which the persons enter into the contract; and

"(3) that are not contracts of sale (or options on such a contract or on a commodity) for future delivery of any security, including any group or index of securities or any interest in, or based on the value of, any security or any group or index of securities.

"(c) ANTIMANIPULATION REQUIREMENTS.—A party to a contract of sale of a commodity for future delivery (or option on such a contract or on a commodity) that is traded on an exempt board of trade shall be subject to sections 4b, 4c(b), 4o, 6(c), and 9(a)(2), and the Commission shall enforce those provisions with respect to any such trading.

"(d) PRICE DISCOVERY.—If the Commission finds that an exempt board of trade is a significant source of price discovery for transactions in the cash market for the commodity underlying any contract, agreement, or transaction traded on or through the facilities of the board of trade, the board of trade shall disseminate publicly on a daily basis trading volume, opening and closing price ranges, open interest, and other trading data as appropriate to the market.

"(e) JURISDICTION.—The Commission shall have exclusive jurisdiction over any account, agreement, contract, or transaction involving a contract of sale of a commodity for future delivery, or option on such a contract or on a commodity, to the extent that the account, agreement, contract, or transaction is traded on an exempt board of trade.

"(f) SUBSIDIARIES.—A board of trade that is designated as a contract market or registered as a derivatives transaction execution facility may operate an exempt board of trade by establishing a separate subsidiary or other legal entity and otherwise satisfying the requirements of this section.

"(g) An exempt board of trade that meets the requirements of subsection (b) shall not represent to any person that the board of trade is registered with, or designated, recognized, licensed, or approved by the Commission.".

SEC. 115. SUSPENSION OR REVOCATION OF DESIGNATION AS CONTRACT MARKET.

Section 5e of the Commodity Exchange Act (7 U.S.C. 7b) (as redesignated by section 20(1)) is amended to read as follows:

"SEC. 5e. SUSPENSION OR REVOCATION OF DESIGNATION AS REGISTERED ENTITY.

"The failure of a registered entity to comply with any provision of this Act, or any regulation or order of the Commission under this Act, shall be cause for the suspension of the registered entity for a period not to exceed 180 days, or revocation of designation as a registered entity in accordance with the procedures and subject to the judicial review provided in section 6(b).".

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended by striking "2000" and inserting "2005".

SEC. 117. PREEMPTION.

Section 12 of the Commodity Exchange Act (7 U.S.C. 16(e)) is amended by striking subsection (e) and inserting the following:

"(e) RELATION TO OTHER LAW, DEPARTMENTS, OR AGENCIES.—

"(1) Nothing in this Act shall supersede or preempt—

"(A) criminal prosecution under any Federal criminal statute;

"(B) the application of any Federal or State statute (except as provided in paragraph (2)), including any rule or regulation thereunder, to any transaction in or involving any commodity, product, right, service, or interest—

"(i) that is not conducted on or subject to the rules of a registered entity or exempt board of trade;

"(ii) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange,

or market located outside the United States, its territories or possessions; or

"(iii) that is not subject to regulation by the Commission under section 4c or 19; or

"(C) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation.

"(2) This Act shall supersede and preempt the application of any State or local law that prohibits or regulates gaming or the operation of bucket shops (other than antifraud provisions of general applicability) in the case of—

"(A) an electronic trading facility excluded under section 2(e) of this Act; and

"(B) an agreement, contract, or transaction that is excluded from this Act under section 2(c), 2(d), 2(f), or 2(g) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 2(h) or 4(c) of this Act (regardless of whether any such agreement, contract, or transaction is otherwise subject to this Act).".

SEC. 118. PREDISPUTE RESOLUTION AGREEMENTS FOR INSTITUTIONAL CUSTOMERS.

Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by striking subsection (g) and inserting the following:

"(g) PREDISPUTE RESOLUTION AGREEMENTS FOR INSTITUTIONAL CUSTOMERS.—Nothing in this section prohibits a registered futures commission merchant from requiring a customer that is an eligible contract participant, as a condition to the commission merchant's conducting a transaction for the customer, to enter into an agreement waiving the right to file a claim under this section.".

SEC. 119. CONSIDERATION OF COSTS AND BENEFITS AND ANTITRUST LAWS.

Section 15 of the Commodity Exchange Act (7 U.S.C. 19) is amended by striking "SEC. 15. The Commission" and inserting the following:

"SEC. 15. CONSIDERATION OF COSTS AND BENEFITS AND ANTITRUST LAWS.

"(a) COSTS AND BENEFITS.—

"(1) IN GENERAL.—Before promulgating a regulation under this Act or issuing an order (except as provided in paragraph (3)), the Commission shall consider the costs and benefits of the action of the Commission.

"(2) CONSIDERATIONS.—The costs and benefits of the proposed Commission action shall be evaluated in light of—

"(A) considerations of protection of market participants and the public;

"(B) considerations of the efficiency, competitiveness, and financial integrity of futures markets;

"(C) considerations of price discovery;

"(D) considerations of sound risk management practices; and

"(E) other public interest considerations.

"(3) APPLICABILITY.—This subsection does not apply to the following actions of the Commission:

"(A) An order that initiates, is part of, or is the result of an adjudicatory or investigative process of the Commission.

"(B) An emergency action.

"(C) A finding of fact regarding compliance with a requirement of the Commission.

"(b) ANTITRUST LAWS.—The Commission".

SEC. 120. CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES.

Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) is amended by adding at the end the following:

"(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES.—No agreement, contract, or transaction between eligible contract participants or persons reasonably believed to be eligible contract participants, and no hybrid instrument sold to any investor, shall be void, voidable, or unenforceable, and no such party shall be entitled to rescind, or recover any payment made with respect to, such an agreement, contract, transaction, or instrument under this section or any other provision of Federal or State law, based solely on the failure of the agreement, contract, transaction, or instrument to comply with the terms or conditions of an exemption or exclusion from any provision of this Act or regulations of the Commission.".

SEC. 121. SPECIAL PROCEDURES TO ENCOURAGE AND FACILITATE BONA FIDE HEDGING BY AGRICULTURAL PRODUCERS.

The Commodity Exchange Act, as otherwise amended by this Act, is amended by inserting after section 4o the following:

"SEC. 4p. SPECIAL PROCEDURES TO ENCOURAGE AND FACILITATE BONA FIDE HEDGING BY AGRICULTURAL PRODUCERS.

"(a) AUTHORITY.—The Commission shall consider issuing rules or orders which—

"(1) prescribe procedures under which each contract market is to provide for orderly delivery, including temporary storage costs, of any agricultural commodity enumerated in section 1a(4) which is the subject of a contract for purchase or sale for future delivery;

"(2) increase the ease with which domestic agricultural producers may participate in contract markets, including by addressing cost and margin requirements, so as to better enable the producers to hedge price risk associated with their production;

"(3) provide flexibility in the minimum quantities of such agricultural commodities that may be the subject of a contract for purchase or sale for future delivery that is traded on a contract market, to better allow domestic agricultural producers to hedge such price risk; and

"(4) encourage contract markets to provide information and otherwise facilitate the participation of domestic agricultural producers in contract markets.

"(b) REPORT.—Within 1 year after the date of the enactment of this section, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee

on Agriculture, Nutrition, and Forestry of the Senate a report on the steps it has taken to implement this section and on the activities of contract markets pursuant to this section.".

SEC. 122. RULE OF CONSTRUCTION.

Except as expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act supersedes, affects, or otherwise limits or expands the scope and applicability of laws governing the Securities and Exchange Commission.

SEC. 123. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMMODITY EXCHANGE ACT.—

(1) Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) (as amended by section 101) is amended—

(A) in paragraphs (5), (6), (16), (17), (20), and (23), by inserting "or derivatives transaction execution facility" after "contract market" each place it appears; and

(B) in paragraph (24)—

(i) in the paragraph heading, by striking "CONTRACT MARKET" and inserting "REGISTERED ENTITY";

(ii) by striking "contract market" each place it appears and inserting "registered entity"; and

(iii) by adding at the end the following:

"A participant in an alternative trading system that is designated as a contract market pursuant to section 5f is deemed a member of the contract market for purposes of transactions in security futures products through the contract market.".

(2) Section 2 of the Commodity Exchange Act (7 U.S.C. 2, 2a, 4, 4a, 3) is amended—

(A) by striking "SEC. 2. (a)(1)(A)(i) The" and inserting the following:

"SEC. 2. JURISDICTION OF COMMISSION; LIABILITY OF PRINCIPAL FOR ACT OF AGENT; COMMODITY FUTURES TRADING COMMISSION; TRANSACTION IN INTERSTATE COMMERCE.

"(a) JURISDICTION OF COMMISSION; COMMODITY FUTURES TRADING COMMISSION.—

"(1) JURISDICTION OF COMMISSION.—

"(A) IN GENERAL.—The"; and

(B) in subsection (a)(1)—

(i) in subparagraph (A) (as amended by subparagraph (A) of this paragraph)—

(I) by striking "subparagraph (B) of this subparagraph" and inserting "subparagraphs (C) and (D) of this paragraph and subsections (c) through (i) of this section";

(II) by striking "contract market designated pursuant to section 5 of this Act" and inserting "contract market designated or derivatives transaction execution facility registered pursuant to section 5 or 5a";

(III) by striking clause (ii); and

(IV) in clause (iii), by striking "(iii) The" and inserting the following:

"(B) LIABILITY OF PRINCIPAL FOR ACT OF AGENT.—The"; and

(ii) in subparagraph (B)—

(I) by striking "(B)" and inserting "(C)";
(II) in clause (v)—
(aa) by striking "section 3 of the Securities Act of 1933"; and
(bb) by inserting "or subparagraph (D)" after "subparagraph"; and
(III) by moving clauses (i) through (v) 4 ems to the right;

(C) in subsection (a)(7), by striking "contract market" and inserting "registered entity";

(D) in subsection (a)(8)(B)(ii)—
(i) in the first sentence, by striking "designation as a contract market" and inserting "designation or registration as a contract market or derivatives transaction execution facility";
(ii) in the second sentence, by striking "designate a board of trade as a contract market" and inserting "designate or register a board of trade as a contract market or derivatives transaction execution facility"; and
(iii) in the fourth sentence, by striking "designating, or refusing, suspending, or revoking the designation of, a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 8a(9) of this Act" and inserting "designating, registering, or refusing, suspending, or revoking the designation or registration of, a board of trade as a contract market or derivatives transaction execution facility involving transactions for future delivery referred to in this clause or in considering any possible action under this Act (including without limitation emergency action under section 8a(9))", and by striking "designation, suspension, revocation, or emergency action" and inserting "designation, registration, suspension, revocation, or action"; and

(E) in subsection (a), by moving paragraphs (2) through (9) 2 ems to the right.

(3) Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(A) in subsection (a)—
(i) in paragraph (1), by striking "designated by the Commission as a 'contract market' for" and inserting "designated or registered by the Commission as a contract market or derivatives transaction execution facility for";
(ii) in paragraph (2), by striking "member of such"; and
(iii) in paragraph (3), by inserting "or derivatives transaction execution facility" after "contract market"; and

(B) in subsection (c)—
(i) in paragraph (1)—
(I) by striking "designated as a contract market" and inserting "designated or registered as a contract market or derivatives transaction execution facility"; and

(II) by striking "section 2(a)(1)(B)" and inserting "subparagraphs (C)(ii) and (D) of section 2(a)(1), except that the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D)"; and

(ii) in paragraph (2)(B)(ii), by inserting "or derivatives transaction execution facility" after "contract market".

(4) Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting "or derivatives transaction execution facilities" after "contract markets"; and

(ii) in the second sentence, by inserting "or derivatives transaction execution facility" after "contract market";

(B) in subsection (b)—

(i) in paragraph (1), by inserting ", or derivatives transaction execution facility or facilities," after "markets"; and

(ii) in paragraph (2), by inserting "or derivatives transaction execution facility" after "contract market"; and

(C) in subsection (e)—

(i) by striking "contract market or" each place it appears and inserting "contract market, derivatives transaction execution facility, or";

(ii) by striking "licensed or designated" each place it appears and inserting "licensed, designated, or registered"; and

(iii) by striking "contract market, or" and inserting "contract market or derivatives transaction execution facility, or".

(5) Section 4b(a) of the Commodity Exchange Act (7 U.S.C. 6b(a)) is amended by striking "contract market" each place it appears and inserting "registered entity".

(6) Sections 4c(g), 4d, 4e, and 4f of the Commodity Exchange Act (7 U.S.C. 6c(g), 6d, 6e, 6f) are amended by inserting "or derivatives transaction execution facility" after "contract market" each place it appears.

(7) Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended—

(A) in subsection (b), by striking "clearinghouse and contract market" and inserting "registered entity"; and

(B) in subsection (f), by striking "clearinghouses, contract markets, and exchanges" and inserting "registered entities".

(8) Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended by striking "contract market" each place it appears and inserting "registered entity".

(9) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting "or derivatives transaction execution facility" after "contract market".

(10) Section 4l of the Commodity Exchange Act (7 U.S.C. 6l) is amended by inserting "or derivatives transaction execution facilities" after "contract markets" each place it appears.

(11) Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended—

(A) in the third sentence of subsection (a), by striking "Act or contract markets" and inserting "Act, contract markets, or derivatives transaction execution facilities"; and

(B) in subsection (b), by inserting "derivatives transaction execution facility," after "contract market,".

(12) Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 9a, 9b, 13b, 15) is amended—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking "board of trade desiring to be designated a 'contract market' shall make application to the Commission for such designation" and inserting "person desiring to be designated or registered as a contract market or derivatives transaction execution facility shall make application to the Commission for the designation or registration";

(II) by striking "above conditions" and inserting "conditions set forth in this Act"; and

(III) by striking "above requirements" and inserting "the requirements of this Act";

(ii) in the second sentence, by striking "designation as a contract market within one year" and inserting "designation or registration as a contract market or derivatives transaction execution facility within 180 days";

(iii) in the third sentence—

(I) by striking "board of trade" and inserting "person"; and

(II) by striking "one-year period" and inserting "180-day period"; and

(iv) in the last sentence, by striking "designate as a 'contract market' any board of trade that has made application therefor, such board of trade" and inserting "designate or register as a contract market or derivatives transaction execution facility any person that has made application therefor, the person";

(B) in subsection (b)—

(i) in the first sentence—

(I) by striking "designation of any board of trade as a 'contract market' upon" and inserting "designation or registration of any contract market or derivatives transaction execution facility on";

(II) by striking "board of trade" each place it appears and inserting "contract market or derivatives transaction execution facility"; and

(III) by striking "designation as set forth in section 5 of this Act" and inserting "designation or registration as set forth in sections 5 through 5b or section 5f";

(ii) in the second sentence—

(I) by striking "board of trade" the first place it appears and inserting "contract market or derivatives transaction execution facility"; and

(II) by striking "board of trade" the second and third places it appears and inserting "person"; and

(iii) in the last sentence, by striking "board of trade" each place it appears and inserting "person";

(C) in subsection (c)—

(i) by striking "contract market" each place it appears and inserting "registered entity";

(ii) by striking "contract markets" each place it appears and inserting "registered entities"; and

(iii) by striking "trading privileges" each place it appears and inserting "privileges";

(D) in subsection (d), by striking "contract market" each place it appears and inserting "registered entity"; and

(E) in subsection (e), by striking "trading on all contract markets" each place it appears and inserting "the privileges of all registered entities".

(13) Section 6a of the Commodity Exchange Act (7 U.S.C. 10a) is amended—

(A) in the first sentence of subsection (a), by striking "designated as a 'contract market' shall" and inserting "designated or registered as a contract market or a derivatives transaction execution facility"; and

(B) in subsection (b), by striking "designated as a contract market" and inserting "designated or registered as a contract market or a derivatives transaction execution facility".

(14) Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(A) by striking "contract market" each place it appears and inserting "registered entity";

(B) in the first sentence, by striking "designation as set forth in section 5 of this Act" and inserting "designation or registration as set forth in sections 5 through 5c"; and

(C) in the last sentence, by striking "the contract market's ability" and inserting "the ability of the registered entity".

(15) Section 6c(a) of the Commodity Exchange Act (7 U.S.C. 13a–1(a)) by striking "contract market" and inserting "registered entity".

(16) Section 6d(1) of the Commodity Exchange Act (7 U.S.C. 13a–2(1)) is amended by inserting "derivatives transaction execution facility," after "contract market,".

(17) Section 7 of the Commodity Exchange Act (7 U.S.C. 11) is amended—

(A) in the first sentence—

(i) by striking "board of trade" and inserting "person";

(ii) by inserting "or registered" after "designated";

(iii) by inserting "or registration" after "designation" each place it appears; and

(iv) by striking "contract market" each place it appears and inserting "registered entity";

(B) in the second sentence—

(i) by striking "designation of such board of trade as a contract market" and inserting "designation or registration of the registered entity"; and

(ii) by striking "contract markets" and inserting "registered entities"; and

(C) in the last sentence—

(i) by striking "board of trade" and inserting "person"; and

(ii) by striking "designated again a contract market" and inserting "designated or registered again a registered entity".

(18) Section 8(c) of the Commodity Exchange Act (7 U.S.C. 12(c)) is amended in the first sentence by striking "board of trade" and inserting "registered entity".

(19) Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(A) by striking "contract market" each place it appears and inserting "registered entity"; and

(B) in paragraph (2)(F), by striking "trading privileges" and inserting "privileges".

(20) Sections 8b and 8c(e) of the Commodity Exchange Act (7 U.S.C. 12b, 12c(e)) are amended by striking "contract market" each place it appears and inserting "registered entity".

(21) Section 8e of the Commodity Exchange Act (7 U.S.C. 12e) is repealed.

(22) Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by striking "contract market" each place it appears and inserting "registered entity".

(23) Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended—

(A) in subsection (a)(1)(B), by striking "contract market" and inserting "registered entity"; and

(B) in subsection (f), by striking "contract markets" and inserting "registered entities".

(24) Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by striking "contract market" each place it appears and inserting "registered entity".

(25) Section 22 of the Commodity Exchange Act (7 U.S.C. 25) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking "contract market, clearing organization of a contract market, licensed board of trade," and inserting "registered entity"; and

(II) in subparagraph (C)(i), by striking "contract market" and inserting "registered entity";

(ii) in paragraph (2), by striking "sections 5a(11)," and inserting "sections 5(d)(13), 5b(b)(1)(E),"; and

(iii) in paragraph (3), by striking "contract market" and inserting "registered entity"; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "contract market or clearing organization of a contract market" and inserting "registered entity";

(II) by striking "section 5a(8) and section 5a(9) of this Act" and inserting "sections 5 through 5c";

(III) by striking "contract market, clearing organization of a contract market, or licensed board of trade" and inserting "registered entity"; and

(IV) by striking "contract market or licensed board of trade" and inserting "registered entity";

(ii) in paragraph (3)—

(I) by striking "a contract market, clearing organization, licensed board of trade," and inserting "registered entity"; and

(II) by striking "contract market, licensed board of trade" and inserting "registered entity";

(iii) in paragraph (4), by striking "contract market, licensed board of trade, clearing organization," and inserting "registered entity"; and

(iv) in paragraph (5), by striking "contract market, licensed board of trade, clearing organization," and inserting "registered entity".

(b) FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.—Section 402(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402(2)) is amended by striking subparagraph (B) and inserting the following:

"(B) that is registered as a derivatives clearing organization under section 5b of the Commodity Exchange Act.".

SEC. 124. PRIVACY.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5f (as added by section 252) the following:

"SEC. 5g. PRIVACY.

"(a) TREATMENT AS FINANCIAL INSTITUTIONS.—Notwithstanding section 509(3)(B) of the Gramm-Leach-Bliley Act, any futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commission under this Act with respect to any financial activity shall be treated as a financial institution for purposes of title V of such Act with respect to such financial activity.

"(b) TREATMENT OF CFTC AS FEDERAL FUNCTIONAL REGULATOR.—For purposes of title V of such Act, the Commission shall be treated as a Federal functional regulator within the meaning of section 509(2) of such Act and shall prescribe regulations under such title within 6 months after the date of the enactment of this section.".

SEC. 125. REPORT TO CONGRESS.

(a) The Commodity Futures Trading Commission (in this section referred to as the "Commission") shall undertake and complete a study of the Commodity Exchange Act (in this section referred to as "the Act") and the Commission's rules, regulations and orders governing the conduct of persons required to be registered under the Act, not later than 1 year after the date of the enactment of this Act. The study shall identify—

(1) the core principles and interpretations of acceptable business practices that the Commission has adopted or intends

to adopt to replace the provisions of the Act and the Commission's rules and regulations thereunder;

(2) the rules and regulations that the Commission has determined must be retained and the reasons therefor;

(3) the extent to which the Commission believes it can effect the changes identified in paragraph (1) of this subsection through its exemptive authority under section 4(c) of the Act; and

(4) the regulatory functions the Commission currently performs that can be delegated to a registered futures association (within the meaning of the Act) and the regulatory functions that the Commission has determined must be retained and the reasons therefor.

(b) In conducting the study, the Commission shall solicit the views of the public as well as Commission registrants, registered entities, and registered futures associations (all within the meaning of the Act).

(c) The Commission shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the results of its study, which shall include an analysis of comments received.

SEC. 126. INTERNATIONAL ACTIVITIES OF THE COMMODITY FUTURES TRADING COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) derivatives markets serving United States industry are increasingly global in scope;

(2) developments in data processing and communications technologies enable users of risk management services to analyze and compare those services on a worldwide basis;

(3) financial services regulatory policy must be flexible to account for rapidly changing derivatives industry business practices;

(4) regulatory impediments to the operation of global business interests can compromise the competitiveness of United States businesses;

(5) events that disrupt financial markets and economies are often global in scope, require rapid regulatory response, and coordinated regulatory effort across international jurisdictions;

(6) through its membership in the International Organisation of Securities Commissions, the Commodity Futures Trading Commission has promoted beneficial communication among market regulators and international regulatory cooperation; and

(7) the Commodity Futures Trading Commission and other United States financial regulators and self-regulatory organizations should continue to foster productive and cooperative working relationships with their counterparts in foreign jurisdictions.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, consistent with its responsibilities under the Commodity Exchange Act, the Commodity Futures Trading Commission should, as part of its international activities, continue to coordinate with

foreign regulatory authorities, to participate in international regulatory organizations and forums, and to provide technical assistance to foreign government authorities, in order to encourage—

(1) the facilitation of cross-border transactions through the removal or lessening of any unnecessary legal or practical obstacles;

(2) the development of internationally accepted regulatory standards of best practice;

(3) the enhancement of international supervisory cooperation and emergency procedures;

(4) the strengthening of international cooperation for customer and market protection; and

(5) improvements in the quality and timeliness of international information sharing.

TITLE II—COORDINATED REGULATION OF SECURITY FUTURES PRODUCTS

Subtitle A—Securities Law Amendments

SEC. 201. DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (10), by inserting "security future," after "treasury stock,";

(2) by striking paragraph (11) and inserting the following:

"(11) The term 'equity security' means any stock or similar security; or any security future on any such security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Commission shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as it may prescribe in the public interest or for the protection of investors, to treat as an equity security.";

(3) in paragraph (13), by adding at the end the following: "For security futures products, such term includes any contract, agreement, or transaction for future delivery.";

(4) in paragraph (14), by adding at the end the following: "For security futures products, such term includes any contract, agreement, or transaction for future delivery."; and

(5) by adding at the end the following:

"(55)(A) The term 'security future' means a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except an exempted security under section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of the enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) as in effect on the date of the enactment of the Futures Trading Act of 1982). The term 'security future' does not include any agreement, contract, or transaction excluded from the Commodity Exchange Act under section 2(c), 2(d), 2(f), or 2(g)

of the Commodity Exchange Act (as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000) or title IV of the Commodity Futures Modernization Act of 2000.

"(B) The term 'narrow-based security index' means an index—

"(i) that has 9 or fewer component securities;

"(ii) in which a component security comprises more than 30 percent of the index's weighting;

"(iii) in which the five highest weighted component securities in the aggregate comprise more than 60 percent of the index's weighting; or

"(iv) in which the lowest weighted component securities comprising, in the aggregate, 25 percent of the index's weighting have an aggregate dollar value of average daily trading volume of less than $50,000,000 (or in the case of an index with 15 or more component securities, $30,000,000), except that if there are two or more securities with equal weighting that could be included in the calculation of the lowest weighted component securities comprising, in the aggregate, 25 percent of the index's weighting, such securities shall be ranked from lowest to highest dollar value of average daily trading volume and shall be included in the calculation based on their ranking starting with the lowest ranked security.

"(C) Notwithstanding subparagraph (B), an index is not a narrow-based security index if—

"(i)(I) it has at least nine component securities;

"(II) no component security comprises more than 30 percent of the index's weighting; and

"(III) each component security is—

"(aa) registered pursuant to section 12 of the Securities Exchange Act of 1934;

"(bb) one of 750 securities with the largest market capitalization; and

"(cc) one of 675 securities with the largest dollar value of average daily trading volume;

"(ii) a board of trade was designated as a contract market by the Commodity Futures Trading Commission with respect to a contract of sale for future delivery on the index, before the date of the enactment of the Commodity Futures Modernization Act of 2000;

"(iii)(I) a contract of sale for future delivery on the index traded on a designated contract market or registered derivatives transaction execution facility for at least 30 days as a contract of sale for future delivery on an index that was not a narrow-based security index; and

"(II) it has been a narrow-based security index for no more than 45 business days over 3 consecutive calendar months;

"(iv) a contract of sale for future delivery on the index is traded on or subject to the rules of a foreign board of trade and meets such requirements as are jointly established by rule or regulation by the Commission and the Commodity Futures Trading Commission;

"(v) no more than 18 months have passed since the date of the enactment of the Commodity Futures Modernization Act of 2000 and—

"(I) it is traded on or subject to the rules of a foreign board of trade;

"(II) the offer and sale in the United States of a contract of sale for future delivery on the index was authorized before the date of the enactment of the Commodity Futures Modernization Act of 2000; and

"(III) the conditions of such authorization continue to be met; or

"(vi) a contract of sale for future delivery on the index is traded on or subject to the rules of a board of trade and meets such requirements as are jointly established by rule, regulation, or order by the Commission and the Commodity Futures Trading Commission.

"(D) Within 1 year after the enactment of the Commodity Futures Modernization Act of 2000, the Commission and the Commodity Futures Trading Commission jointly shall adopt rules or regulations that set forth the requirements under clause (iv) of subparagraph (C).

"(E) An index that is a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to clause (iii) of subparagraph (C) shall not be a narrow-based security index for the 3 following calendar months.

"(F) For purposes of subparagraphs (B) and (C) of this paragraph—

"(i) the dollar value of average daily trading volume and the market capitalization shall be calculated as of the preceding 6 full calendar months; and

"(ii) the Commission and the Commodity Futures Trading Commission shall, by rule or regulation, jointly specify the method to be used to determine market capitalization and dollar value of average daily trading volume.

"(56) The term 'security futures product' means a security future or any put, call, straddle, option, or privilege on any security future.

"(57)(A) The term 'margin', when used with respect to a security futures product, means the amount, type, and form of collateral required to secure any extension or maintenance of credit, or the amount, type, and form of collateral required as a performance bond related to the purchase, sale, or carrying of a security futures product.

"(B) The terms 'margin level' and 'level of margin', when used with respect to a security futures product, mean the amount of margin required to secure any extension or maintenance of credit, or the amount of margin required as a performance bond related to the purchase, sale, or carrying of a security futures product.

"(C) The terms 'higher margin level' and 'higher level of margin', when used with respect to a security futures product, mean a margin level established by a national securities exchange registered pursuant to section 6(g) that is higher than the minimum amount established and in effect pursuant to section 7(c)(2)(B).".

SEC. 202. REGULATORY RELIEF FOR MARKETS TRADING SECURITY FUTURES PRODUCTS.

(a) EXPEDITED REGISTRATION AND EXEMPTION.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

"(g) NOTICE REGISTRATION OF SECURITY FUTURES PRODUCT EXCHANGES.—

"(1) REGISTRATION REQUIRED.—An exchange that lists or trades security futures products may register as a national securities exchange solely for the purposes of trading security futures products if—

"(A) the exchange is a board of trade, as that term is defined by the Commodity Exchange Act (7 U.S.C. 1a(2)), that—

"(i) has been designated a contract market by the Commodity Futures Trading Commission and such designation is not suspended by order of the Commodity Futures Trading Commission; or

"(ii) is registered as a derivative transaction execution facility under section 5a of the Commodity Exchange Act and such registration is not suspended by the Commodity Futures Trading Commission; and

"(B) such exchange does not serve as a market place for transactions in securities other than—

"(i) security futures products; or

"(ii) futures on exempted securities or groups or indexes of securities or options thereon that have been authorized under section 2(a)(1)(C) of the Commodity Exchange Act.

"(2) REGISTRATION BY NOTICE FILING.—

"(A) FORM AND CONTENT.—An exchange required to register only because such exchange lists or trades security futures products may register for purposes of this section by filing with the Commission a written notice in such form as the Commission, by rule, may prescribe containing the rules of the exchange and such other information and documents concerning such exchange, comparable to the information and documents required for national securities exchanges under section 6(a), as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. If such exchange has filed documents with the Commodity Futures Trading Commission, to the extent that such documents contain information satisfying the Commission's informational requirements, copies of such documents may be filed with the Commission in lieu of the required written notice.

"(B) IMMEDIATE EFFECTIVENESS.—Such registration shall be effective contemporaneously with the submission of notice, in written or electronic form, to the Commission, except that such registration shall not be effective if such registration would be subject to suspension or revocation.

"(C) TERMINATION.—Such registration shall be terminated immediately if any of the conditions for registration set forth in this subsection are no longer satisfied.

"(3) PUBLIC AVAILABILITY.—The Commission shall promptly publish in the Federal Register an acknowledgment of receipt

of all notices the Commission receives under this subsection and shall make all such notices available to the public.

"(4) EXEMPTION OF EXCHANGES FROM SPECIFIED PROVISIONS.—

"(A) TRANSACTION EXEMPTIONS.—An exchange that is registered under paragraph (1) of this subsection shall be exempt from, and shall not be required to enforce compliance by its members with, and its members shall not, solely with respect to those transactions effected on such exchange in security futures products, be required to comply with, the following provisions of this title and the rules thereunder:

"(i) Subsections (b)(2), (b)(3), (b)(4), (b)(7), (b)(9), (c), (d), and (e) of this section.

"(ii) Section 8.

"(iii) Section 11.

"(iv) Subsections (d), (f), and (k) of section 17.

"(v) Subsections (a), (f), and (h) of section 19.

"(B) RULE CHANGE EXEMPTIONS.—An exchange that registered under paragraph (1) of this subsection shall also be exempt from submitting proposed rule changes pursuant to section 19(b) of this title, except that—

"(i) such exchange shall file proposed rule changes related to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating such exchange's obligation to enforce the securities laws pursuant to section 19(b)(7);

"(ii) such exchange shall file pursuant to sections 19(b)(1) and 19(b)(2) proposed rule changes related to margin, except for changes resulting in higher margin levels; and

"(iii) such exchange shall file pursuant to section 19(b)(1) proposed rule changes that have been abrogated by the Commission pursuant to section 19(b)(7)(C).

"(5) TRADING IN SECURITY FUTURES PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), it shall be unlawful for any person to execute or trade a security futures product until the later of—

"(i) 1 year after the date of the enactment of the Commodity Futures Modernization Act of 2000; or

"(ii) such date that a futures association registered under section 17 of the Commodity Exchange Act has met the requirements set forth in section 15A(k)(2) of this title.

"(B) PRINCIPAL-TO-PRINCIPAL TRANSACTIONS.—Notwithstanding subparagraph (A), a person may execute or trade a security futures product transaction if—

"(i) the transaction is entered into—

"(I) on a principal-to-principal basis between parties trading for their own accounts or as described in section 1a(12)(B)(ii) of the Commodity Exchange Act; and

"(II) only between eligible contract participants (as defined in subparagraphs (A), (B)(ii), and (C) of such section 1a(12)) at the time at which the persons enter into the agreement, contract, or transaction; and

"(ii) the transaction is entered into on or after the later of—

"(I) 8 months after the date of the enactment of the Commodity Futures Modernization Act of 2000; or

"(II) such date that a futures association registered under section 17 of the Commodity Exchange Act has met the requirements set forth in section 15A(k)(2) of this title.".

(b) COMMISSION REVIEW OF PROPOSED RULE CHANGES.—

(1) EXPEDITED REVIEW.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:

"(7) SECURITY FUTURES PRODUCT RULE CHANGES.—

"(A) FILING REQUIRED.—A self-regulatory organization that is an exchange registered with the Commission pursuant to section 6(g) of this title or that is a national securities association registered pursuant to section 15A(k) of this title shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule change or any proposed change in, addition to, or deletion from the rules of such self-regulatory organization (hereinafter in this paragraph collectively referred to as a 'proposed rule change') that relates to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating such self-regulatory organization's obligation to enforce the securities laws. Such proposed rule change shall be accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, promptly publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit data, views, and arguments concerning such proposed rule change.

"(B) FILING WITH CFTC.—A proposed rule change filed with the Commission pursuant to subparagraph (A) shall be filed concurrently with the Commodity Futures Trading Commission. Such proposed rule change may take effect upon filing of a written certification with the Commodity Futures Trading Commission under section 5c(c) of the Commodity Exchange Act, upon a determination by the Commodity Futures Trading Commission that review of the proposed rule change is not necessary, or upon approval of the proposed rule change by the Commodity Futures Trading Commission.

"(C) ABROGATION OF RULE CHANGES.—Any proposed rule change of a self-regulatory organization that has taken

effect pursuant to subparagraph (B) may be enforced by such self-regulatory organization to the extent such rule is not inconsistent with the provisions of this title, the rules and regulations thereunder, and applicable Federal law. At any time within 60 days of the date of the filing of a written certification with the Commodity Futures Trading Commission under section 5c(c) of the Commodity Exchange Act, the date the Commodity Futures Trading Commission determines that review of such proposed rule change is not necessary, or the date the Commodity Futures Trading Commission approves such proposed rule change, the Commission, after consultation with the Commodity Futures Trading Commission, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1), if it appears to the Commission that such proposed rule change unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect and shall not be reviewable under section 25 of this title nor deemed to be a final agency action for purposes of section 704 of title 5, United States Code.

"(D) REVIEW OF RESUBMITTED ABROGATED RULES.—

"(i) PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change that is abrogated in accordance with subparagraph (C) and refiled in accordance with paragraph (1), or within such longer period as the Commission may designate up to 90 days after such date if the Commission finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall—

"(I) by order approve such proposed rule change; or

"(II) after consultation with the Commodity Futures Trading Commission, institute proceedings to determine whether the proposed rule change should be disapproved. Proceedings under subclause (II) shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days after the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings, the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the self-regulatory organization consents.

"(ii) GROUNDS FOR APPROVAL.—The Commission shall approve a proposed rule change of a self-regulatory organization under this subparagraph if the Commission finds that such proposed rule change does not unduly burden competition or efficiency, does not conflict with the securities laws, and is not inconsistent with the public interest or the protection of investors. The Commission shall disapprove such a proposed rule change of a self-regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.".

(2) DECIMAL PRICING PROVISIONS.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by inserting after paragraph (7), as added by paragraph (1), the following:

"(8) DECIMAL PRICING.—Not later than 9 months after the date on which trading in any security futures product commences under this title, all self-regulatory organizations listing or trading security futures products shall file proposed rule changes necessary to implement decimal pricing of security futures products. The Commission may not require such rules to contain equal minimum increments in such decimal pricing.".

(3) CONSULTATION PROVISIONS.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by inserting after paragraph (8), as added by paragraph (2), the following:

"(9) CONSULTATION WITH CFTC.—

"(A) CONSULTATION REQUIRED.—The Commission shall consult with and consider the views of the Commodity Futures Trading Commission prior to approving or disapproving a proposed rule change filed by a national securities association registered pursuant to section 15A(a) or a national securities exchange subject to the provisions of subsection (a) that primarily concerns conduct related to transactions in security futures products, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor.

"(B) RESPONSES TO CFTC COMMENTS AND FINDINGS.—If the Commodity Futures Trading Commission comments in writing to the Commission on a proposed rule that has been published for comment, the Commission shall respond in writing to such written comment before approving or disapproving the proposed rule. If the Commodity Futures Trading Commission determines, and notifies the Commission, that such rule, if implemented or as applied, would—

"(i) adversely affect the liquidity or efficiency of the market for security futures products; or

"(ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section,

the Commission shall, prior to approving or disapproving the proposed rule, find that such rule is necessary and

appropriate in furtherance of the purposes of this section notwithstanding the Commodity Futures Trading Commission's determination.".

(c) REVIEW OF DISCIPLINARY PROCEEDINGS.—Section 19(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(d)) is amended by adding at the end the following:

"(3) The provisions of this subsection shall apply to an exchange registered pursuant to section 6(g) of this title or a national securities association registered pursuant to section 15A(k) of this title only to the extent that such exchange or association imposes any final disciplinary sanction for—

"(A) a violation of the Federal securities laws or the rules and regulations thereunder; or

"(B) a violation of a rule of such exchange or association, as to which a proposed change would be required to be filed under section 19 of this title, except that, to the extent that the exchange or association rule violation relates to any account, agreement, contract, or transaction, this subsection shall apply only to the extent such violation involves a security futures product.".

SEC. 203. REGULATORY RELIEF FOR INTERMEDIARIES TRADING SECURITY FUTURES PRODUCTS.

(a) EXPEDITED REGISTRATION AND EXEMPTIONS.—

(1) AMENDMENT.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following:

"(11) BROKER/DEALER REGISTRATION WITH RESPECT TO TRANSACTIONS IN SECURITY FUTURES PRODUCTS.—

"(A) NOTICE REGISTRATION.—

"(i) CONTENTS OF NOTICE.—Notwithstanding paragraphs (1) and (2), a broker or dealer required to register only because it effects transactions in security futures products on an exchange registered pursuant to section 6(g) may register for purposes of this section by filing with the Commission a written notice in such form and containing such information concerning such broker or dealer and any persons associated with such broker or dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. A broker or dealer may not register under this paragraph unless that broker or dealer is a member of a national securities association registered under section 15A(k).

"(ii) IMMEDIATE EFFECTIVENESS.—Such registration shall be effective contemporaneously with the submission of notice, in written or electronic form, to the Commission, except that such registration shall not be effective if the registration would be subject to suspension or revocation under paragraph (4).

"(iii) SUSPENSION.—Such registration shall be suspended immediately if a national securities association registered pursuant to section 15A(k) of this title suspends the membership of that broker or dealer.

"(iv) TERMINATION.—Such registration shall be terminated immediately if any of the above stated

conditions for registration set forth in this paragraph are no longer satisfied.

"(B) EXEMPTIONS FOR REGISTERED BROKERS AND DEALERS.—A broker or dealer registered pursuant to the requirements of subparagraph (A) shall be exempt from the following provisions of this title and the rules thereunder with respect to transactions in security futures products:

"(i) Section 8.

"(ii) Section 11.

"(iii) Subsections (c)(3) and (c)(5) of this section.

"(iv) Section 15B.

"(v) Section 15C.

"(vi) Subsections (d), (e), (f), (g), (h), and (i) of section 17.".

(2) CONFORMING AMENDMENT.—Section 28(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)) is amended by adding at the end the following:

"(4) The provisions of this subsection shall not apply with regard to securities that are security futures products.".

(b) FLOOR BROKERS AND FLOOR TRADERS.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by inserting after paragraph (11), as added by subsection (a), the following:

"(12) EXEMPTION FOR SECURITY FUTURES PRODUCT EXCHANGE MEMBERS.—

"(A) REGISTRATION EXEMPTION.—A natural person shall be exempt from the registration requirements of this section if such person—

"(i) is a member of a designated contract market registered with the Commission as an exchange pursuant to section 6(g);

"(ii) effects transactions only in securities on the exchange of which such person is a member; and

"(iii) does not directly accept or solicit orders from public customers or provide advice to public customers in connection with the trading of security futures products.

"(B) OTHER EXEMPTIONS.—A natural person exempt from registration pursuant to subparagraph (A) shall also be exempt from the following provisions of this title and the rules thereunder:

"(i) Section 8.

"(ii) Section 11.

"(iii) Subsections (c)(3), (c)(5), and (e) of this section.

"(iv) Section 15B.

"(v) Section 15C.

"(vi) Subsections (d), (e), (f), (g), (h), and (i) of section 17.".

(c) LIMITED PURPOSE NATIONAL SECURITIES ASSOCIATION.—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by adding at the end the following:

"(k) LIMITED PURPOSE NATIONAL SECURITIES ASSOCIATION.—

"(1) REGULATION OF MEMBERS WITH RESPECT TO SECURITY FUTURES PRODUCTS.—A futures association registered under section 17 of the Commodity Exchange Act shall be a registered

national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products pursuant to section 15(b)(11).

"(2) REQUIREMENTS FOR REGISTRATION.—Such a securities association shall—

"(A) be so organized and have the capacity to carry out the purposes of the securities laws applicable to security futures products and to comply, and (subject to any rule or order of the Commission pursuant to section 19(g)(2)) to enforce compliance by its members and persons associated with its members, with the provisions of the securities laws applicable to security futures products, the rules and regulations thereunder, and its rules;

"(B) have rules that—

"(i) are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, including rules governing sales practices and the advertising of security futures products reasonably comparable to those of other national securities associations registered pursuant to subsection (a) that are applicable to security futures products; and

"(ii) are not designed to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the association;

"(C) have rules that provide that (subject to any rule or order of the Commission pursuant to section 19(g)(2)) its members and persons associated with its members shall be appropriately disciplined for violation of any provision of the securities laws applicable to security futures products, the rules or regulations thereunder, or the rules of the association, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction; and

"(D) have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in security futures products and are tested for their knowledge of securities and security futures products.

"(3) EXEMPTION FROM RULE CHANGE SUBMISSION.—Such a securities association shall be exempt from submitting proposed rule changes pursuant to section 19(b) of this title, except that—

"(A) the association shall file proposed rule changes related to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for, advertising of, or standards of training, experience, competence, or other qualifications for security futures products for persons who effect transactions in security futures products, or rules effectuating the association's obligation to enforce the securities laws pursuant to section 19(b)(7);

"(B) the association shall file pursuant to sections 19(b)(1) and 19(b)(2) proposed rule changes related to margin, except for changes resulting in higher margin levels; and

"(C) the association shall file pursuant to section 19(b)(1) proposed rule changes that have been abrogated by the Commission pursuant to section 19(b)(7)(C).

"(4) OTHER EXEMPTIONS.—Such a securities association shall be exempt from and shall not be required to enforce compliance by its members, and its members shall not, solely with respect to their transactions effected in security futures products, be required to comply, with the following provisions of this title and the rules thereunder:

"(A) Section 8.

"(B) Subsections (b)(1), (b)(3), (b)(4), (b)(5), (b)(8), (b)(10), (b)(11), (b)(12), (b)(13), (c), (d), (e), (f), (g), (h), and (i) of this section.

"(C) Subsections (d), (f), and (k) of section 17.

"(D) Subsections (a), (f), and (h) of section 19.".

(d) EXEMPTION UNDER THE SECURITIES INVESTOR PROTECTION ACT OF 1970.—

(1) Section 16(14) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll(14)) is amended by inserting "or any security future as that term is defined in section 3(a)(55)(A) of the Securities Exchange Act of 1934," after "certificate of deposit for a security,".

(2) Section 3(a)(2)(A) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ccc(a)(2)(A)) is amended—

(A) in clause (i), by striking "and" after the semicolon;

(B) in clause (ii), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(iii) persons who are registered as a broker or dealer pursuant to section 15(b)(11)(A) of the Securities Exchange Act of 1934.".

SEC. 204. SPECIAL PROVISIONS FOR INTERAGENCY COOPERATION.

Section 17(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)) is amended—

(1) by striking "(b) All" and inserting the following:

"(b) RECORDS SUBJECT TO EXAMINATION.—

"(1) PROCEDURES FOR COOPERATION WITH OTHER AGENCIES.—All";

(2) by striking "prior to conducting any such examination of a registered clearing" and inserting the following: "prior to conducting any such examination of a—

"(A) registered clearing";

(3) by redesignating the last sentence as paragraph (4)(C);

(4) by striking the period at the end of the first sentence and inserting the following: "; or

"(B) broker or dealer registered pursuant to section 15(b)(11), exchange registered pursuant to section 6(g), or national securities association registered pursuant to section 15A(k) gives notice to the Commodity Futures Trading Commission of such proposed examination and consults with the Commodity Futures Trading Commission concerning the feasibility and desirability of coordinating such

examination with examinations conducted by the Commodity Futures Trading Commission in order to avoid unnecessary regulatory duplication or undue regulatory burdens for such broker or dealer or exchange.";

(5) by adding at the end the following new paragraphs:

"(2) FURNISHING DATA AND REPORTS TO CFTC.—The Commission shall notify the Commodity Futures Trading Commission of any examination conducted of any broker or dealer registered pursuant to section 15(b)(11), exchange registered pursuant to section 6(g), or national securities association registered pursuant to section 15A(k) and, upon request, furnish to the Commodity Futures Trading Commission any examination report and data supplied to, or prepared by, the Commission in connection with such examination.

"(3) USE OF CFTC REPORTS.—Prior to conducting an examination under paragraph (1), the Commission shall use the reports of examinations, if the information available therein is sufficient for the purposes of the examination, of—

"(A) any broker or dealer registered pursuant to section 15(b)(11);

"(B) exchange registered pursuant to section 6(g); or

"(C) national securities association registered pursuant to section 15A(k);

that is made by the Commodity Futures Trading Commission, a national securities association registered pursuant to section 15A(k), or an exchange registered pursuant to section 6(g).

"(4) RULES OF CONSTRUCTION.—

"(A) Notwithstanding any other provision of this subsection, the records of a broker or dealer registered pursuant to section 15(b)(11), an exchange registered pursuant to section 6(g), or a national securities association registered pursuant to section 15A(k) described in this subparagraph shall not be subject to routine periodic examinations by the Commission.

"(B) Any recordkeeping rules adopted under this subsection for a broker or dealer registered pursuant to section 15(b)(11), an exchange registered pursuant to section 6(g), or a national securities association registered pursuant to section 15A(k) shall be limited to records with respect to persons, accounts, agreements, contracts, and transactions involving security futures products."; and

(6) in paragraph (4)(C) (as redesignated by paragraph (3) of this section), by striking "Nothing in the proviso to the preceding sentence" and inserting "Nothing in the proviso in paragraph (1)".

SEC. 205. MAINTENANCE OF MARKET INTEGRITY FOR SECURITY FUTURES PRODUCTS.

(a) ADDITION OF SECURITY FUTURES PRODUCTS TO OPTION-SPECIFIC ENFORCEMENT PROVISIONS.—

(1) PROHIBITION AGAINST MANIPULATION.—Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(b)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "acquires"; and

(ii) by striking "; or" and inserting "; or (B) any security futures product on the security; or";

(B) in paragraph (2)—

(i) by inserting "(A)" after "interest in any"; and

(ii) by striking "; or" and inserting "; or (B) such security futures product; or"; and

(C) in paragraph (3)—

(i) by inserting "(A)" after "interest in any"; and

(ii) by inserting "; or (B) such security futures product" after "privilege".

(2) MANIPULATION IN OPTIONS AND OTHER DERIVATIVE PRODUCTS.—Section 9(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(g)) is amended—

(A) by inserting "(1)" after "(g)";

(B) by inserting "other than a security futures product" after "future delivery"; and

(C) by adding at the end the following:

"(2) Notwithstanding the Commodity Exchange Act, the Commission shall have the authority to regulate the trading of any security futures product to the extent provided in the securities laws.".

(3) LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS.—Section 20(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(d)) is amended by striking "or privilege" and inserting ", privilege, or security futures product".

(4) LIABILITY TO CONTEMPORANEOUS TRADERS FOR INSIDER TRADING.—Section 21A(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(1)) is amended by striking "standardized options, the Commission—" and inserting "standardized options or security futures products, the Commission—".

(5) ENFORCEMENT CONSULTATION.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following:

"(i) INFORMATION TO CFTC.—The Commission shall provide the Commodity Futures Trading Commission with notice of the commencement of any proceeding and a copy of any order entered by the Commission against any broker or dealer registered pursuant to section 15(b)(11), any exchange registered pursuant to section 6(g), or any national securities association registered pursuant to section 15A(k).".

SEC. 206. SPECIAL PROVISIONS FOR THE TRADING OF SECURITY FUTURES PRODUCTS.

(a) LISTING STANDARDS AND CONDITIONS FOR TRADING.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by inserting after subsection (g), as added by section 202, the following:

"(h) TRADING IN SECURITY FUTURES PRODUCTS.—

"(1) TRADING ON EXCHANGE OR ASSOCIATION REQUIRED.—It shall be unlawful for any person to effect transactions in security futures products that are not listed on a national securities exchange or a national securities association registered pursuant to section 15A(a).

"(2) LISTING STANDARDS REQUIRED.—Except as otherwise provided in paragraph (7), a national securities exchange or a national securities association registered pursuant to section

15A(a) may trade only security futures products that (A) conform with listing standards that such exchange or association files with the Commission under section 19(b) and (B) meet the criteria specified in section 2(a)(1)(D)(i) of the Commodity Exchange Act.

"(3) REQUIREMENTS FOR LISTING STANDARDS AND CONDITIONS FOR TRADING.—Such listing standards shall—

"(A) except as otherwise provided in a rule, regulation, or order issued pursuant to paragraph (4), require that any security underlying the security future, including each component security of a narrow-based security index, be registered pursuant to section 12 of this title;

"(B) require that if the security futures product is not cash settled, the market on which the security futures product is traded have arrangements in place with a registered clearing agency for the payment and delivery of the securities underlying the security futures product;

"(C) be no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association registered pursuant to section 15A(a) of this title;

"(D) except as otherwise provided in a rule, regulation, or order issued pursuant to paragraph (4), require that the security future be based upon common stock and such other equity securities as the Commission and the Commodity Futures Trading Commission jointly determine appropriate;

"(E) require that the security futures product is cleared by a clearing agency that has in place provisions for linked and coordinated clearing with other clearing agencies that clear security futures products, which permits the security futures product to be purchased on one market and offset on another market that trades such product;

"(F) require that only a broker or dealer subject to suitability rules comparable to those of a national securities association registered pursuant to section 15A(a) effect transactions in the security futures product;

"(G) require that the security futures product be subject to the prohibition against dual trading in section 4j of the Commodity Exchange Act (7 U.S.C. 6j) and the rules and regulations thereunder or the provisions of section 11(a) of this title and the rules and regulations thereunder, except to the extent otherwise permitted under this title and the rules and regulations thereunder;

"(H) require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities;

"(I) require that procedures be in place for coordinated surveillance among the market on which the security futures product is traded, any market on which any security underlying the security futures product is traded, and other markets on which any related security is traded to detect manipulation and insider trading;

"(J) require that the market on which the security futures product is traded has in place audit trails necessary or appropriate to facilitate the coordinated surveillance required in subparagraph (I);

"(K) require that the market on which the security futures product is traded has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded; and

"(L) require that the margin requirements for a security futures product comply with the regulations prescribed pursuant to section 7(c)(2)(B), except that nothing in this subparagraph shall be construed to prevent a national securities exchange or national securities association from requiring higher margin levels for a security futures product when it deems such action to be necessary or appropriate.

"(4) AUTHORITY TO MODIFY CERTAIN LISTING STANDARD REQUIREMENTS.—

"(A) AUTHORITY TO MODIFY.—The Commission and the Commodity Futures Trading Commission, by rule, regulation, or order, may jointly modify the listing standard requirements specified in subparagraph (A) or (D) of paragraph (3) to the extent such modification fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.

"(B) AUTHORITY TO GRANT EXEMPTIONS.—The Commission and the Commodity Futures Trading Commission, by order, may jointly exempt any person from compliance with the listing standard requirement specified in subparagraph (E) of paragraph (3) to the extent such exemption fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.

"(5) REQUIREMENTS FOR OTHER PERSONS TRADING SECURITY FUTURE PRODUCTS.—It shall be unlawful for any person (other than a national securities exchange or a national securities association registered pursuant to section 15A(a)) to constitute, maintain, or provide a marketplace or facilities for bringing together purchasers and sellers of security future products or to otherwise perform with respect to security future products the functions commonly performed by a stock exchange as that term is generally understood, unless a national securities association registered pursuant to section 15A(a) or a national securities exchange of which such person is a member—

"(A) has in place procedures for coordinated surveillance among such person, the market trading the securities underlying the security future products, and other markets trading related securities to detect manipulation and insider trading;

"(B) has rules to require audit trails necessary or appropriate to facilitate the coordinated surveillance required in subparagraph (A); and

"(C) has rules to require such person to coordinate trading halts with markets trading the securities underlying the security future products and other markets trading related securities.

"(6) DEFERRAL OF OPTIONS ON SECURITY FUTURES TRADING.—No person shall offer to enter into, enter into, or confirm the execution of any put, call, straddle, option, or privilege on a security future, except that, after 3 years after the date of the enactment of this subsection, the Commission and the Commodity Futures Trading Commission may by order jointly determine to permit trading of puts, calls, straddles, options, or privileges on any security future authorized to be traded under the provisions of this Act and the Commodity Exchange Act.

"(7) DEFERRAL OF LINKED AND COORDINATED CLEARING.—

"(A) Notwithstanding paragraph (2), until the compliance date, a national securities exchange or national securities association registered pursuant to section 15A(a) may trade a security futures product that does not—

"(i) conform with any listing standard promulgated to meet the requirement specified in subparagraph (E) of paragraph (3); or

"(ii) meet the criterion specified in section 2(a)(1)(D)(i)(IV) of the Commodity Exchange Act.

"(B) The Commission and the Commodity Futures Trading Commission shall jointly publish in the Federal Register a notice of the compliance date no later than 165 days before the compliance date.

"(C) For purposes of this paragraph, the term 'compliance date' means the later of—

"(i) 180 days after the end of the first full calendar month period in which the average aggregate comparable share volume for all security futures products based on single equity securities traded on all national securities exchanges, any national securities associations registered pursuant to section 15A(a), and all other persons equals or exceeds 10 percent of the average aggregate comparable share volume of options on single equity securities traded on all national securities exchanges and any national securities associations registered pursuant to section 15A(a); or

"(ii) 2 years after the date on which trading in any security futures product commences under this title.".

(b) MARGIN.—Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended—

(1) in subsection (a), by inserting "or a security futures product" after "exempted security";

(2) in subsection (c)(1)(A), by inserting "except as provided in paragraph (2)," after "security),";

(3) by redesignating paragraph (2) of subsection (c) as paragraph (3) of such subsection; and

(4) by inserting after paragraph (1) of such subsection the following:

"(2) MARGIN REGULATIONS.—

"(A) COMPLIANCE WITH MARGIN RULES REQUIRED.—It shall be unlawful for any broker, dealer, or member of

a national securities exchange to, directly or indirectly, extend or maintain credit to or for, or collect margin from any customer on, any security futures product unless such activities comply with the regulations—

"(i) which the Board shall prescribe pursuant to subparagraph (B); or

"(ii) if the Board determines to delegate the authority to prescribe such regulations, which the Commission and the Commodity Futures Trading Commission shall jointly prescribe pursuant to subparagraph (B).

If the Board delegates the authority to prescribe such regulations under clause (ii) and the Commission and the Commodity Futures Trading Commission have not jointly prescribed such regulations within a reasonable period of time after the date of such delegation, the Board shall prescribe such regulations pursuant to subparagraph (B).

"(B) CRITERIA FOR ISSUANCE OF RULES.—The Board shall prescribe, or, if the authority is delegated pursuant to subparagraph (A)(ii), the Commission and the Commodity Futures Trading Commission shall jointly prescribe, such regulations to establish margin requirements, including the establishment of levels of margin (initial and maintenance) for security futures products under such terms, and at such levels, as the Board deems appropriate, or as the Commission and the Commodity Futures Trading Commission jointly deem appropriate—

"(i) to preserve the financial integrity of markets trading security futures products;

"(ii) to prevent systemic risk;

"(iii) to require that—

"(I) the margin requirements for a security future product be consistent with the margin requirements for comparable option contracts traded on any exchange registered pursuant to section 6(a) of this title; and

"(II) initial and maintenance margin levels for a security future product not be lower than the lowest level of margin, exclusive of premium, required for any comparable option contract traded on any exchange registered pursuant to section 6(a) of this title, other than an option on a security future;

except that nothing in this subparagraph shall be construed to prevent a national securities exchange or national securities association from requiring higher margin levels for a security future product when it deems such action to be necessary or appropriate; and

"(iv) to ensure that the margin requirements (other than levels of margin), including the type, form, and use of collateral for security futures products, are and remain consistent with the requirements established by the Board, pursuant to subparagraphs (A) and (B) of paragraph (1).".

(c) INCORPORATION OF SECURITY FUTURES PRODUCTS INTO THE NATIONAL MARKET SYSTEM.—Section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k–1) is amended by adding at the end the following:

"(e) NATIONAL MARKETS SYSTEM FOR SECURITY FUTURES PRODUCTS.—

"(1) CONSULTATION AND COOPERATION REQUIRED.—With respect to security futures products, the Commission and the Commodity Futures Trading Commission shall consult and cooperate so that, to the maximum extent practicable, their respective regulatory responsibilities may be fulfilled and the rules and regulations applicable to security futures products may foster a national market system for security futures products if the Commission and the Commodity Futures Trading Commission jointly determine that such a system would be consistent with the congressional findings in subsection (a)(1). In accordance with this objective, the Commission shall, at least 15 days prior to the issuance for public comment of any proposed rule or regulation under this section concerning security futures products, consult and request the views of the Commodity Futures Trading Commission.

"(2) APPLICATION OF RULES BY ORDER OF CFTC.—No rule adopted pursuant to this section shall be applied to any person with respect to the trading of security futures products on an exchange that is registered under section 6(g) unless the Commodity Futures Trading Commission has issued an order directing that such rule is applicable to such persons.".

(d) INCORPORATION OF SECURITY FUTURES PRODUCTS INTO THE NATIONAL SYSTEM FOR CLEARANCE AND SETTLEMENT.—Section 17A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(b)) is amended by adding at the end the following:

"(7)(A) A clearing agency that is regulated directly or indirectly by the Commodity Futures Trading Commission through its association with a designated contract market for security futures products that is a national securities exchange registered pursuant to section 6(g), and that would be required to register pursuant to paragraph (1) of this subsection only because it performs the functions of a clearing agency with respect to security futures products effected pursuant to the rules of the designated contract market with which such agency is associated, is exempted from the provisions of this section and the rules and regulations thereunder, except that if such a clearing agency performs the functions of a clearing agency with respect to a security futures product that is not cash settled, it must have arrangements in place with a registered clearing agency to effect the payment and delivery of the securities underlying the security futures product.

"(B) Any clearing agency that performs the functions of a clearing agency with respect to security futures products must coordinate with and develop fair and reasonable links with any and all other clearing agencies that perform the functions of a clearing agency with respect to security futures products, in order to permit, as of the compliance date (as defined in section 6(h)(6)(C)), security futures products to be purchased on one market and offset on another market that trades such products.".

(e) MARKET EMERGENCY POWERS AND CIRCUIT BREAKERS.—Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(k)) is amended—

(1) in paragraph (1), by adding at the end the following: "If the actions described in subparagraph (A) or (B) involve a security futures product, the Commission shall consult with

and consider the views of the Commodity Futures Trading Commission."; and

(2) in paragraph (2)(B), by inserting after the first sentence the following: "If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission.".

(f) TRANSACTION FEES.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) in subsection (a), by inserting "and assessments" after "fees";

(2) in subsections (b), (c), and (d)(1), by striking "and other evidences of indebtedness" and inserting "other evidences of indebtedness, and security futures products";

(3) in subsection (f), by inserting "or assessment" after "fee";

(4) in subsection (g), by inserting "and assessment" after "fee";

(5) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(6) by inserting after subsection (d) the following new subsection:

"(e) ASSESSMENTS ON SECURITY FUTURES TRANSACTIONS.—Each national securities exchange and national securities association shall pay to the Commission an assessment equal to $0.02 for each round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery) on a security future traded on such national securities exchange or by or through any member of such association otherwise than on a national securities exchange, except that for fiscal year 2007 or any succeeding fiscal year such assessment shall be equal to $0.0075 for each such transaction. Assessments collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.".

(g) EXEMPTION FROM SHORT SALE PROVISIONS.—Section 10(a) of the Securities Exchange Act of 1934 (15 U.S.C 78j(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Paragraph (1) of this subsection shall not apply to security futures products.".

(h) RULEMAKING AUTHORITY TO ADDRESS DUPLICATIVE REGULATION OF DUAL REGISTRANTS.—Section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:

"(B) Consistent with this title, the Commission, in consultation with the Commodity Futures Trading Commission, shall issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to any broker or dealer registered with the Commission pursuant to section 15(b) (except paragraph (11) thereof), that is also registered with the Commodity Futures Trading Commission pursuant to section 4f(a) of the Commodity Exchange Act (except paragraph (2) thereof), with respect to the application of: (i) the provisions of section 8, section 15(c)(3), and section 17 of this title and the rules and regulations thereunder related to the treatment of customer funds, securities,

or property, maintenance of books and records, financial reporting, or other financial responsibility rules, involving security futures products; and (ii) similar provisions of the Commodity Exchange Act and rules and regulations thereunder involving security futures products.".

(i) OBLIGATION TO ADDRESS DUPLICATIVE REGULATION OF DUAL REGISTRANTS.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by inserting after subsection (h), as added by subsection (a) of this section, the following:

"(i) Consistent with this title, each national securities exchange registered pursuant to subsection (a) of this section shall issue such rules as are necessary to avoid duplicative or conflicting rules applicable to any broker or dealer registered with the Commission pursuant to section 15(b) (except paragraph (11) thereof), that is also registered with the Commodity Futures Trading Commission pursuant to section 4f(a) of the Commodity Exchange Act (except paragraph (2) thereof), with respect to the application of—

(1) rules of such national securities exchange of the type specified in section 15(c)(3)(B) involving security futures products; and

(2) similar rules of national securities exchanges registered pursuant to section 6(g) and national securities associations registered pursuant to section 15A(k) involving security futures products.".

(j) OBLIGATION TO ADDRESS DUPLICATIVE REGULATION OF DUAL REGISTRANTS.—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (k), as added by section 203, the following:

"(l) Consistent with this title, each national securities association registered pursuant to subsection (a) of this section shall issue such rules as are necessary to avoid duplicative or conflicting rules applicable to any broker or dealer registered with the Commission pursuant to section 15(b) (except paragraph (11) thereof), that is also registered with the Commodity Futures Trading Commission pursuant to section 4f(a) of the Commodity Exchange Act (except paragraph (2) thereof), with respect to the application of—

"(1) rules of such national securities association of the type specified in section 15(c)(3)(B) involving security futures products; and

"(2) similar rules of national securities associations registered pursuant to subsection (k) of this section and national securities exchanges registered pursuant to section 6(g) involving security futures products.".

(k) OBLIGATION TO PUT IN PLACE PROCEDURES AND ADOPT RULES.—

(1) NATIONAL SECURITIES ASSOCIATIONS.—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (l), as added by subsection (j) of this section, the following new subsection:

"(m) PROCEDURES AND RULES FOR SECURITY FUTURE PRODUCTS.—A national securities association registered pursuant to subsection (a) shall, not later than 8 months after the date of the enactment of the Commodity Futures Modernization Act of 2000, implement the procedures specified in section 6(h)(5)(A) of this title and adopt the rules specified in subparagraphs (B) and (C) of section 6(h)(5) of this title.".

(2) NATIONAL SECURITIES EXCHANGES.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by inserting after subsection (i), as added by subsection (i) of this section, the following new subsection:

"(j) PROCEDURES AND RULES FOR SECURITY FUTURE PRODUCTS.—A national securities exchange registered pursuant to subsection (a) shall implement the procedures specified in section 6(h)(5)(A) of this title and adopt the rules specified in subparagraphs (B) and (C) of section 6(h)(5) of this title not later than 8 months after the date of receipt of a request from an alternative trading system for such implementation and rules.".

(l) OBLIGATION TO ADDRESS SECURITY FUTURES PRODUCTS TRADED ON FOREIGN EXCHANGES.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding after subsection (j), as added by subsection (k) of this section, the following:

"(k)(1) To the extent necessary or appropriate in the public interest, to promote fair competition, and consistent with the promotion of market efficiency, innovation, and expansion of investment opportunities, the protection of investors, and the maintenance of fair and orderly markets, the Commission and the Commodity Futures Trading Commission shall jointly issue such rules, regulations, or orders as are necessary and appropriate to permit the offer and sale of a security futures product traded on or subject to the rules of a foreign board of trade to United States persons.

"(2) The rules, regulations, or orders adopted under paragraph (1) shall take into account, as appropriate, the nature and size of the markets that the securities underlying the security futures product reflect.".

SEC. 207. CLEARANCE AND SETTLEMENT.

Section 17A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(b)) is amended—

(1) in paragraph (3)(A), by inserting "and derivative agreements, contracts, and transactions" after "prompt and accurate clearance and settlement of securities transactions";

(2) in paragraph (3)(F), by inserting "and, to the extent applicable, derivative agreements, contracts, and transactions" after "designed to promote the prompt and accurate clearance and settlement of securities transactions"; and

(3) by inserting after paragraph (7), as added by section 206(d), the following:

"(8) A registered clearing agency shall be permitted to provide facilities for the clearance and settlement of any derivative agreements, contracts, or transactions that are excluded from the Commodity Exchange Act, subject to the requirements of this section and to such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.".

SEC. 208. AMENDMENTS RELATING TO REGISTRATION AND DISCLOSURE ISSUES UNDER THE SECURITIES ACT OF 1933 AND THE SECURITIES EXCHANGE ACT OF 1934.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) TREATMENT OF SECURITY FUTURES PRODUCTS.—Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended—

(A) in paragraph (1), by inserting "security future," after "treasury stock,";

(B) in paragraph (3), by adding at the end the following: "Any offer or sale of a security futures product by or on behalf of the issuer of the securities underlying the security futures product, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer for sale, or offer to sell the underlying securities."; and

(C) by adding at the end the following:

"(16) The terms 'security future', 'narrow-based security index', and 'security futures product' have the same meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.".

(2) EXEMPTION FROM REGISTRATION.—Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following:

"(14) Any security futures product that is—

"(A) cleared by a clearing agency registered under section 17A of the Securities Exchange Act of 1934 or exempt from registration under subsection (b)(7) of such section 17A; and

"(B) traded on a national securities exchange or a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.".

(3) CONFORMING AMENDMENT.—Section 12(a)(2) of the Securities Act of 1933 (15 U.S.C. 77l(a)(2)) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (14)".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) EXEMPTION FROM REGISTRATION.—Section 12(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(a)) is amended by adding at the end the following: "The provisions of this subsection shall not apply in respect of a security futures product traded on a national securities exchange.".

(2) EXEMPTIONS FROM REPORTING REQUIREMENT.—Section 12(g)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(5)) is amended by adding at the end the following: "For purposes of this subsection, a security futures product shall not be considered a class of equity security of the issuer of the securities underlying the security futures product.".

(3) TRANSACTIONS BY CORPORATE INSIDERS.—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end the following:

"(f) TREATMENT OF TRANSACTIONS IN SECURITY FUTURES PRODUCTS.—The provisions of this section shall apply to ownership of and transactions in security futures products.".

SEC. 209. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT OF 1940.

(a) DEFINITIONS UNDER THE INVESTMENT COMPANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT OF 1940.—

(1) Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(36)) is amended by inserting "security future," after "treasury stock,".

(2) Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(18)) is amended by inserting "security future," after "treasury stock,".

(3) Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)) is amended by adding at the end the following:

"(52) The terms 'security future' and 'narrow-based security index' have the same meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.".

(4) Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

"(27) The terms 'security future' and 'narrow-based security index' have the same meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.".

(b) OTHER PROVISION.—Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following:

"(6) any investment adviser that is registered with the Commodity Futures Trading Commission as a commodity trading advisor whose business does not consist primarily of acting as an investment adviser, as defined in section 202(a)(11) of this title, and that does not act as an investment adviser to—

"(A) an investment company registered under title I of this Act; or

"(B) a company which has elected to be a business development company pursuant to section 54 of title I of this Act and has not withdrawn its election.".

SEC. 210. PREEMPTION OF STATE LAWS.

Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended—

(1) in the last sentence—

(A) by inserting "subject to this title" after "privilege, or other security"; and

(B) by striking "any such instrument, if such instrument is traded pursuant to rules and regulations of a self-regulatory organization that are filed with the Commission pursuant to section 19(b) of this Act" and inserting "any such security"; and

(2) by adding at the end the following new sentence: "No provision of State law regarding the offer, sale, or distribution of securities shall apply to any transaction in a security futures product, except that this sentence shall not be construed as limiting any State antifraud law of general applicability.".

Subtitle B—Amendments to the Commodity Exchange Act

SEC. 251. JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION; OTHER PROVISIONS.

(a) JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION.—

(1) Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2a) (as redesignated by section 34(a)(2)(C)) is amended—

(A) in clause (ii)—

(i) by inserting "or register a derivatives transaction execution facility that trades or executes," after "contract market in,";

(ii) by inserting after "contracts) for future delivery" the following: ", and no derivatives transaction execution facility shall trade or execute such contracts of sale (or options on such contracts) for future delivery,";

(iii) by striking "making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets" and inserting "or the derivatives transaction execution facility, and the applicable contract, meet"; and

(iv) by striking subclause (III) of clause (ii) and inserting the following:

"(III) Such group or index of securities shall not constitute a narrow-based security index.";

(B) by striking clause (iii);

(C) by striking clause (iv) and inserting the following:

"(iii) If, in its discretion, the Commission determines that a stock index futures contract, notwithstanding its conformance with the requirements in clause (ii) of this subparagraph, can reasonably be used as a surrogate for trading a security (including a security futures product), it may, by order, require such contract and any option thereon be traded and regulated as security futures products as defined in section 3(a)(56) of the Securities Exchange Act of 1934 and section 1a of this Act subject to all rules and regulations applicable to security futures products under this Act and the securities laws as defined in section 3(a)(47) of the Securities Exchange Act of 1934."; and

(D) by redesignating clause (v) as clause (iv).

(2) Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2, 2a, 4) is amended by adding at the end the following:

"(D)(i) Notwithstanding any other provision of this Act, the Securities and Exchange Commission shall have jurisdiction and authority over security futures as defined in section 3(a)(55) of the Securities Exchange Act of 1934, section 2(a)(16) of the Securities Act of 1933, section 2(a)(52) of the Investment Company Act of 1940, and section 202(a)(27) of the Investment Advisers Act of 1940, options on security futures, and persons effecting transactions in security futures and options thereon, and this Act shall apply to and the Commission shall have jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'), contracts, and transactions involving, and may designate a board of trade as a contract market in, or register a derivatives transaction execution facility that trades or executes, a security futures product as defined in section 1a of this Act: *Provided, however,* That, except as provided in clause (vi) of this subparagraph, no board of trade shall be designated as a contract market with respect to, or registered as a derivatives transaction execution facility for, any such contracts of sale for future delivery unless the board of trade and the applicable contract meet the following criteria:

"(I) Except as otherwise provided in a rule, regulation, or order issued pursuant to clause (v) of this subparagraph, any security underlying the security future, including each component security of a narrow-based security index, is registered pursuant to section 12 of the Securities Exchange Act of 1934.

"(II) If the security futures product is not cash settled, the board of trade on which the security futures product is traded has arrangements in place with a clearing agency registered pursuant to section 17A of the Securities Exchange Act of 1934 for the payment and delivery of the securities underlying the security futures product.

"(III) Except as otherwise provided in a rule, regulation, or order issued pursuant to clause (v) of this subparagraph, the security future is based upon common stock and such other equity securities as the Commission and the Securities and Exchange Commission jointly determine appropriate.

"(IV) The security futures product is cleared by a clearing agency that has in place provisions for linked and coordinated clearing with other clearing agencies that clear security futures products, which permits the security futures product to be purchased on a designated contract market, registered derivatives transaction execution facility, national securities exchange registered under section 6(a) of the Securities Exchange Act of 1934, or national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934 and offset on another designated contract market, registered derivatives transaction execution facility, national securities exchange registered under section 6(a) of the Securities Exchange Act of 1934, or national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

"(V) Only futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators or associated persons subject to suitability rules comparable to those of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934 solicit, accept any order for, or otherwise deal in any transaction in or in connection with the security futures product.

"(VI) The security futures product is subject to a prohibition against dual trading in section 4j of this Act and the rules and regulations thereunder or the provisions of section 11(a) of the Securities Exchange Act of 1934 and the rules and regulations thereunder, except to the extent otherwise permitted under the Securities Exchange Act of 1934 and the rules and regulations thereunder.

"(VII) Trading in the security futures product is not readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities;

"(VIII) The board of trade on which the security futures product is traded has procedures in place for coordinated surveillance among such board of trade, any market on which any security underlying the security futures product is traded, and other markets on which any related security is traded to detect manipulation and insider trading, except that, if the board of trade is an alternative trading system, a national

securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934 or national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 of which such alternative trading system is a member has in place such procedures.

"(IX) The board of trade on which the security futures product is traded has in place audit trails necessary or appropriate to facilitate the coordinated surveillance required in subclause (VIII), except that, if the board of trade is an alternative trading system, a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934 or national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 of which such alternative trading system is a member has rules to require such audit trails.

"(X) The board of trade on which the security futures product is traded has in place procedures to coordinate trading halts between such board of trade and markets on which any security underlying the security futures product is traded and other markets on which any related security is traded, except that, if the board of trade is an alternative trading system, a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934 or national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 of which such alternative trading system is a member has rules to require such coordinated trading halts.

"(XI) The margin requirements for a security futures product comply with the regulations prescribed pursuant to section 7(c)(2)(B) of the Securities Exchange Act of 1934, except that nothing in this subclause shall be construed to prevent a board of trade from requiring higher margin levels for a security futures product when it deems such action to be necessary or appropriate.

"(ii) It shall be unlawful for any person to offer, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting, or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a security futures product unless—

"(I) the transaction is conducted on or subject to the rules of a board of trade that—

"(aa) has been designated by the Commission as a contract market in such security futures product; or

"(bb) is a registered derivatives transaction execution facility for the security futures product that has provided a certification with respect to the security futures product pursuant to clause (vii);

"(II) the contract is executed or consummated by, through, or with a member of the contract market or registered derivatives transaction execution facility; and

"(III) the security futures product is evidenced by a record in writing which shows the date, the parties to such security futures product and their addresses, the property covered, and its price, and each contract market member or registered derivatives transaction execution facility member shall keep

the record for a period of 3 years from the date of the transaction, or for a longer period if the Commission so directs, which record shall at all times be open to the inspection of any duly authorized representative of the Commission.

"(iii)(I) Except as provided in subclause (II) but notwithstanding any other provision of this Act, no person shall offer to enter into, enter into, or confirm the execution of any option on a security future.

"(II) After 3 years after the date of the enactment of the Commodity Futures Modernization Act of 2000, the Commission and the Securities and Exchange Commission may by order jointly determine to permit trading of options on any security future authorized to be traded under the provisions of this Act and the Securities Exchange Act of 1934.

"(iv)(I) All relevant records of a futures commission merchant or introducing broker registered pursuant to section 4f(a)(2), floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), associated person exempt from registration pursuant to section 4k(6), or board of trade designated as a contract market in a security futures product pursuant to section 5f shall be subject to such reasonable periodic or special examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act, and the Commission, before conducting any such examination, shall give notice to the Securities and Exchange Commission of the proposed examination and consult with the Securities and Exchange Commission concerning the feasibility and desirability of coordinating the examination with examinations conducted by the Securities and Exchange Commission in order to avoid unnecessary regulatory duplication or undue regulatory burdens for the registrant or board of trade.

"(II) The Commission shall notify the Securities and Exchange Commission of any examination conducted of any futures commission merchant or introducing broker registered pursuant to section 4f(a)(2), floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), associated person exempt from registration pursuant to section 4k(6), or board of trade designated as a contract market in a security futures product pursuant to section 5f, and, upon request, furnish to the Securities and Exchange Commission any examination report and data supplied to or prepared by the Commission in connection with the examination.

"(III) Before conducting an examination under subclause (I), the Commission shall use the reports of examinations, unless the information sought is unavailable in the reports, of any futures commission merchant or introducing broker registered pursuant to section 4f(a)(2), floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), associated person exempt from registration pursuant to section 4k(6), or board of trade designated as a contract market in a security futures product pursuant to section 5f that is made by the Securities and Exchange Commission, a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(a)), or a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)).

"(IV) Any records required under this subsection for a futures commission merchant or introducing broker registered pursuant

to section 4f(a)(2), floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), associated person exempt from registration pursuant to section 4k(6), or board of trade designated as a contract market in a security futures product pursuant to section 5f, shall be limited to records with respect to accounts, agreements, contracts, and transactions involving security futures products.

"(v)(I) The Commission and the Securities and Exchange Commission, by rule, regulation, or order, may jointly modify the criteria specified in subclause (I) or (III) of clause (i), including the trading of security futures based on securities other than equity securities, to the extent such modification fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.

"(II) The Commission and the Securities and Exchange Commission, by order, may jointly exempt any person from compliance with the criterion specified in clause (i)(IV) to the extent such exemption fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.

"(vi)(I) Notwithstanding clauses (i) and (vii), until the compliance date, a board of trade shall not be required to meet the criterion specified in clause (i)(IV).

"(II) The Commission and the Securities and Exchange Commission shall jointly publish in the Federal Register a notice of the compliance date no later than 165 days before the compliance date.

"(III) For purposes of this clause, the term 'compliance date' means the later of—

"(aa) 180 days after the end of the first full calendar month period in which the average aggregate comparable share volume for all security futures products based on single equity securities traded on all designated contract markets and registered derivatives transaction execution facilities equals or exceeds 10 percent of the average aggregate comparable share volume of options on single equity securities traded on all national securities exchanges registered pursuant to section 6(a) of the Securities Exchange Act of 1934 and any national securities associations registered pursuant to section 15A(a) of such Act; or

"(bb) 2 years after the date on which trading in any security futures product commences under this Act.

"(vii) It shall be unlawful for a board of trade to trade or execute a security futures product unless the board of trade has provided the Commission with a certification that the specific security futures product and the board of trade, as applicable, meet the criteria specified in subclauses (I) through (XI) of clause (i), except as otherwise provided in clause (vi).".

(b) MARGIN ON SECURITY FUTURES.—Section 2(a)(1)(C)(vi) of the Commodity Exchange Act (7 U.S.C. 2a(vi)) (as redesignated by section 34) is amended—

(1) by redesignating subclause (V) as subclause (VI); and

(2) by striking "(vi)(I)" and all that follows through subclause (IV) and inserting the following:

"(v)(I) Notwithstanding any other provision of this Act, any contract market in a stock index futures contract (or option

thereon) other than a security futures product, or any derivatives transaction execution facility on which such contract or option is traded, shall file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for such stock index futures contract (or option thereon) other than security futures products.

"(II) The Board may at any time request any contract market or derivatives transaction execution facility to set the margin for any stock index futures contract (or option thereon), other than for any security futures product, at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or derivatives transaction execution facility, or its clearing system, or to prevent systemic risk. If the contract market or derivatives transaction execution facility fails to do so within the time specified by the Board in its request, the Board may direct the contract market or derivatives transaction execution facility to alter or supplement the rules of the contract market or derivatives transaction execution facility as specified in the request.

"(III) Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority, relating to margin for any stock index futures contract (or option thereon), other than security futures products, under this clause to the Commission.

"(IV) It shall be unlawful for any futures commission merchant to, directly or indirectly, extend or maintain credit to or for, or collect margin from any customer on any security futures product unless such activities comply with the regulations prescribed pursuant to section 7(c)(2)(B) of the Securities Exchange Act of 1934.

"(V) Nothing in this clause shall supersede or limit the authority granted to the Commission in section 8a(9) to direct a contract market or registered derivatives transaction execution facility, on finding an emergency to exist, to raise temporary margin levels on any futures contract, or option on the contract covered by this clause, or on any security futures product.".

(c) DUAL TRADING.—Section 4j of the Commodity Exchange Act (7 U.S.C. 6j) is amended to read as follows:

"SEC. 4j. RESTRICTIONS ON DUAL TRADING IN SECURITY FUTURES PRODUCTS ON DESIGNATED CONTRACT MARKETS AND REGISTERED DERIVATIVES TRANSACTION EXECUTION FACILITIES.

"(a) The Commission shall issue regulations to prohibit the privilege of dual trading in security futures products on each contract market and registered derivatives transaction execution facility. The regulations issued by the Commission under this section—

"(1) shall provide that the prohibition of dual trading thereunder shall take effect upon issuance of the regulations; and

"(2) shall provide exceptions, as the Commission determines appropriate, to ensure fairness and orderly trading in security futures product markets, including—

"(A) exceptions for spread transactions and the correction of trading errors;

"(B) allowance for a customer to designate in writing not less than once annually a named floor broker to execute orders for such customer, notwithstanding the regulations to prohibit the privilege of dual trading required under this section; and

"(C) other measures reasonably designed to accommodate unique or special characteristics of individual boards of trade or contract markets, to address emergency or unusual market conditions, or otherwise to further the public interest consistent with the promotion of market efficiency, innovation, and expansion of investment opportunities, the protection of investors, and with the purposes of this section.

"(b) As used in this section, the term 'dual trading' means the execution of customer orders by a floor broker during the same trading session in which the floor broker executes any trade in the same contract market or registered derivatives transaction execution facility for—

"(1) the account of such floor broker;

"(2) an account for which such floor broker has trading discretion; or

"(3) an account controlled by a person with whom such floor broker has a relationship through membership in a broker association.

"(c) As used in this section, the term 'broker association' shall include two or more contract market members or registered derivatives transaction execution facility members with floor trading privileges of whom at least one is acting as a floor broker, who—

"(1) engage in floor brokerage activity on behalf of the same employer,

"(2) have an employer and employee relationship which relates to floor brokerage activity,

"(3) share profits and losses associated with their brokerage or trading activity, or

"(4) regularly share a deck of orders.".

(d) EXEMPTION FROM REGISTRATION FOR INVESTMENT ADVISERS.—Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by adding at the end the following:

"(3) Subsection (1) of this section shall not apply to any commodity trading advisor that is registered with the Securities and Exchange Commission as an investment adviser whose business does not consist primarily of acting as a commodity trading advisor, as defined in section 1a(6), and that does not act as a commodity trading advisor to any investment trust, syndicate, or similar form of enterprise that is engaged primarily in trading in any commodity for future delivery on or subject to the rules of any contract market or registered derivatives transaction execution facility.".

(e) EXEMPTION FROM INVESTIGATIONS OF MARKETS IN UNDERLYING SECURITIES.—Section 16 of the Commodity Exchange Act (7 U.S.C. 20) is amended by adding at the end the following:

"(e) This section shall not apply to investigations involving any security underlying a security futures product.".

(f) RULEMAKING AUTHORITY TO ADDRESS DUPLICATIVE REGULATION OF DUAL REGISTRANTS.—Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended—

(1) by inserting "(a)" before the first undesignated paragraph;

(2) by inserting "(b)" before the second undesignated paragraph; and

(3) by adding at the end the following:

"(c) Consistent with this Act, the Commission, in consultation with the Securities and Exchange Commission, shall issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to any futures commission merchant registered with the Commission pursuant to section 4f(a) (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act (except paragraph (11) thereof), involving the application of—

"(1) section 8, section 15(c)(3), and section 17 of the Securities Exchange Act of 1934 and the rules and regulations thereunder related to the treatment of customer funds, securities, or property, maintenance of books and records, financial reporting or other financial responsibility rules (as defined in section 3(a)(40) of the Securities Exchange Act of 1934), involving security futures products; and

"(2) similar provisions of this Act and the rules and regulations thereunder involving security futures products.".

(g) OBLIGATION TO ADDRESS DUPLICATIVE REGULATION OF DUAL REGISTRANTS.—Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by adding at the end the following:

"(r) Consistent with this Act, each futures association registered under this section shall issue such rules as are necessary to avoid duplicative or conflicting rules applicable to any futures commission merchant registered with the Commission pursuant to section 4f(a) of this Act (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities and Exchange Act of 1934 (except paragraph (11) thereof), with respect to the application of—

"(1) rules of such futures association of the type specified in section 4d(3) of this Act involving security futures products; and

"(2) similar rules of national securities associations registered pursuant to section 15A(a) of the Securities and Exchange Act of 1934 involving security futures products.".

(h) OBLIGATION TO ADDRESS DUPLICATIVE REGULATION OF DUAL REGISTRANTS.—Section 5c of the Commodity Exchange Act (as added by section 114) is amended by adding at the end the following:

"(f) Consistent with this Act, each designated contract market and registered derivatives transaction execution facility shall issue such rules as are necessary to avoid duplicative or conflicting rules applicable to any futures commission merchant registered with the Commission pursuant to section 4f(a) of this Act (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act of 1934 (except paragraph (11) thereof) with respect to the application of—

"(1) rules of such designated contract market or registered derivatives transaction execution facility of the type specified in section 4d(3) of this Act involving security futures products; and

"(2) similar rules of national securities associations registered pursuant to section 15A(a) of the Securities Exchange

Act of 1934 and national securities exchanges registered pursuant to section 6(g) of such Act involving security futures products.".

(i) OBLIGATION TO ADDRESS SECURITY FUTURES PRODUCTS TRADED ON FOREIGN EXCHANGES.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2, 2a, and 4) is amended by adding at the end the following:

"(E)(i) To the extent necessary or appropriate in the public interest, to promote fair competition, and consistent with promotion of market efficiency, innovation, and expansion of investment opportunities, the protection of investors, and the maintenance of fair and orderly markets, the Commission and the Securities and Exchange Commission shall jointly issue such rules, regulations, or orders as are necessary and appropriate to permit the offer and sale of a security futures product traded on or subject to the rules of a foreign board of trade to United States persons.

"(ii) The rules, regulations, or orders adopted under clause (i) shall take into account, as appropriate, the nature and size of the markets that the securities underlying the security futures product reflects.".

(j) SECURITY FUTURES PRODUCTS TRADED ON FOREIGN BOARDS OF TRADE.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2, 2a, and 4) is amended by adding at the end the following:

"(F)(i) Nothing in this Act is intended to prohibit a futures commission merchant from carrying security futures products traded on or subject to the rules of a foreign board of trade in the accounts of persons located outside of the United States.

"(ii) Nothing in this Act is intended to prohibit any eligible contract participant located in the United States from purchasing or carrying securities futures products traded on or subject to the rules of a foreign board of trade, exchange, or market to the same extent such person may be authorized to purchase or carry other securities traded on a foreign board of trade, exchange, or market so long as any underlying security for such security futures products is traded principally on, by, or through any exchange or market located outside the United States.".

SEC. 252. APPLICATION OF THE COMMODITY EXCHANGE ACT TO NATIONAL SECURITIES EXCHANGES AND NATIONAL SECURITIES ASSOCIATIONS THAT TRADE SECURITY FUTURES.

(a) NOTICE DESIGNATION OF NATIONAL SECURITIES EXCHANGES AND NATIONAL SECURITIES ASSOCIATIONS.—The Commodity Exchange Act is amended by inserting after section 5e (7 U.S.C. 7b), as redesignated by section 21(1), the following:

"SEC. 5f. DESIGNATION OF SECURITIES EXCHANGES AND ASSOCIATIONS AS CONTRACT MARKETS.

"(a) Any board of trade that is registered with the Securities and Exchange Commission as a national securities exchange, is a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934, or is an alternative trading system shall be a designated contract market in security futures products if—

"(1) such national securities exchange, national securities association, or alternative trading system lists or trades no other contracts of sale for future delivery, except for security futures products;

"(2) such national securities exchange, national securities association, or alternative trading system files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of customers; and

"(3) the registration of such national securities exchange, national securities association, or alternative trading system is not suspended pursuant to an order by the Securities and Exchange Commission.

Such designation shall be effective contemporaneously with the submission of notice, in written or electronic form, to the Commission.

"(b)(1) A national securities exchange, national securities association, or alternative trading system that is designated as a contract market pursuant to section 5f shall be exempt from the following provisions of this Act and the rules thereunder:

"(A) Subsections (c), (e), and (g) of section 4c.
"(B) Section 4j.
"(C) Section 5.
"(D) Section 5c.
"(E) Section 6a.
"(F) Section 8(d).
"(G) Section 9(f).
"(H) Section 16.

"(2) An alternative trading system that is a designated contract market under this section shall be required to be a member of a futures association registered under section 17 and shall be exempt from any provision of this Act that would require such alternative trading system to—

"(A) set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such alternative trading system; or

"(B) discipline subscribers other than by exclusion from trading.

"(3) To the extent that an alternative trading system is exempt from any provision of this Act pursuant to paragraph (2) of this subsection, the futures association registered under section 17 of which the alternative trading system is a member shall set rules governing the conduct of subscribers to the alternative trading system and discipline the subscribers.

"(4)(A) Except as provided in subparagraph (B), but notwithstanding any other provision of this Act, the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any designated contract market in security futures subject to the designation requirement of this section from any provision of this Act or of any rule or regulation thereunder, to the extent such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.

"(B) The Commission shall, by rule or regulation, determine the procedures under which an exemptive order under this section is granted and may, in its sole discretion, decline to entertain any application for an order of exemption under this section.

"(C) An alternative trading system shall not be deemed to be an exchange for any purpose as a result of the designation of such alternative trading system as a contract market under this section.".

(b) NOTICE REGISTRATION OF CERTAIN SECURITIES BROKER-DEALERS; EXEMPTION FROM REGISTRATION FOR CERTAIN SECURITIES BROKER-DEALERS.—Section 4f(a) of the Commodity Exchange Act (7 U.S.C. 6f(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), and except as provided in paragraph (3), any broker or dealer that is registered with the Securities and Exchange Commission shall be registered as a futures commission merchant or introducing broker, as applicable, if—

"(A) the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products;

"(B) the broker or dealer files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors;

"(C) the registration of the broker or dealer is not suspended pursuant to an order of the Securities and Exchange Commission; and

"(D) the broker or dealer is a member of a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.

The registration shall be effective contemporaneously with the submission of notice, in written or electronic form, to the Commission.

"(3) A floor broker or floor trader shall be exempt from the registration requirements of section 4e and paragraph (1) of this subsection if—

"(A) the floor broker or floor trader is a broker or dealer registered with the Securities and Exchange Commission;

"(B) the floor broker or floor trader limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market to security futures products; and

"(C) the registration of the floor broker or floor trader is not suspended pursuant to an order of the Securities and Exchange Commission.".

(c) EXEMPTION FOR SECURITIES BROKER-DEALERS FROM CERTAIN PROVISIONS OF THE COMMODITY EXCHANGE ACT.—Section 4f(a) of the Commodity Exchange Act (7 U.S.C. 6f(a)) is amended by inserting after paragraph (3), as added by subsection (b) of this section, the following:

"(4)(A) A broker or dealer that is registered as a futures commission merchant or introducing broker pursuant to paragraph (2), or that is a floor broker or floor trader exempt from registration pursuant to paragraph (3), shall be exempt from the following provisions of this Act and the rules thereunder:

"(i) Subsections (b), (d), (e), and (g) of section 4c.

"(ii) Sections 4d, 4e, and 4h.

"(iii) Subsections (b) and (c) of this section.

"(iv) Section 4j.
"(v) Section 4k(1).
"(vi) Section 4p.
"(vii) Section 6d.
"(viii) Subsections (d) ar l (g) of section 8.
"(ix) Section 16.

"(B)(i) Except as provided in clause (ii) of this subparagraph, but notwithstanding any other provision of this Act, the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any broker or dealer subject to the registration requirement of paragraph (2), or any broker or dealer exempt from registration pursuant to paragraph (3), from any provision of this Act or of any rule or regulation thereunder, to the extent the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.

"(ii) The Commission shall, by rule or regulation, determine the procedures under which an exemptive order under this section shall be granted and may, in its sole discretion, decline to entertain any application for an order of exemption under this section.

"(C)(i) A broker or dealer that is registered as a futures commission merchant or introducing broker pursuant to paragraph (2) or an associated person thereof, or that is a floor broker or floor trader exempt from registration pursuant to paragraph (3), shall not be required to become a member of any futures association registered under section 17.

"(ii) No futures association registered under section 17 shall limit its members from carrying an account, accepting an order, or transacting business with a broker or dealer that is registered as a futures commission merchant or introducing broker pursuant to paragraph (2) or an associated person thereof, or that is a floor broker or floor trader exempt from registration pursuant to paragraph (3).".

(d) EXEMPTIONS FOR ASSOCIATED PERSONS OF SECURITIES BROKER-DEALERS.—Section 4k of the Commodity Exchange Act (7 U.S.C. 6k), is amended by inserting after paragraph (4), as added by subsection (c) of this section, the following:

"(5) Any associated person of a broker or dealer that is registered with the Securities and Exchange Commission, and who limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery or any option on such a contract, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products, shall be exempt from the following provisions of this Act and the rules thereunder:

"(A) Subsections (b), (d), (e), and (g) of section 4c.
"(B) Sections 4d, 4e, and 4h.
"(C) Subsections (b) and (c) of section 4f.
"(D) Section 4j.
"(E) Paragraph (1) of this section.
"(F) Section 4p.
"(G) Section 6d.
"(H) Subsections (d) and (g) of section 8.
"(I) Section 16.".

SEC. 253. NOTIFICATION OF INVESTIGATIONS AND ENFORCEMENT ACTIONS.

(a) Section 8(a) of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by adding at the end the following:

"(3) The Commission shall provide the Securities and Exchange Commission with notice of the commencement of any proceeding and a copy of any order entered by the Commission against any futures commission merchant or introducing broker registered pursuant to section 4f(a)(2), any floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), any associated person exempt from registration pursuant to section 4k(6), or any board of trade designated as a contract market pursuant to section 5f.".

(b) Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 9a, 9b, 13b, 15) is amended by adding at the end the following:

"(g) The Commission shall provide the Securities and Exchange Commission with notice of the commencement of any proceeding and a copy of any order entered by the Commission pursuant to subsections (c) and (d) of this section against any futures commission merchant or introducing broker registered pursuant to section 4f(a)(2), any floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), any associated person exempt from registration pursuant to section 4k(6), or any board of trade designated as a contract market pursuant to section 5f.".

(c) Section 6c of the Commodity Exchange Act (7 U.S.C. 13a–1) is amended by adding at the end the following:

"(h) The Commission shall provide the Securities and Exchange Commission with notice of the commencement of any proceeding and a copy of any order entered by the Commission against any futures commission merchant or introducing broker registered pursuant to section 4f(a)(2), any floor broker or floor trader exempt from registration pursuant to section 4f(a)(3), any associated person exempt from registration pursuant to section 4k(6), or any board of trade designated as a contract market pursuant to section 5f.".

TITLE III—LEGAL CERTAINTY FOR SWAP AGREEMENTS

SEC. 301. SWAP AGREEMENT.

(a) AMENDMENT.—Title II of the Gramm-Leach-Bliley Act (Public Law 106–102) is amended by inserting after section 206 the following new sections:

"SEC. 206A. SWAP AGREEMENT.

"(a) IN GENERAL.—Except as provided in subsection (b), as used in this section, the term 'swap agreement' means any agreement, contract, or transaction between eligible contract participants (as defined in section 1a(12) of the Commodity Exchange Act as in effect on the date of the enactment of this section), other than a person that is an eligible contract participant under section 1a(12)(C) of the Commodity Exchange Act, the material terms of which (other than price and quantity) are subject to individual negotiation, and that—

"(1) is a put, call, cap, floor, collar, or similar option of any kind for the purchase or sale of, or based on the value of, one or more interest or other rates, currencies, commodities,

indices, quantitative measures, or other financial or economic interests or property of any kind;

"(2) provides for any purchase, sale, payment or delivery (other than a dividend on an equity security) that is dependent on the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;

"(3) provides on an executory basis for the exchange, on a fixed or contingent basis, of one or more payments based on the value or level of one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any such agreement, contract, or transaction commonly known as an interest rate swap, including a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, currency swap, equity index swap, equity swap, debt index swap, debt swap, credit spread, credit default swap, credit swap, weather swap, or commodity swap;

"(4) provides for the purchase or sale, on a fixed or contingent basis, of any commodity, currency, instrument, interest, right, service, good, article, or property of any kind; or

"(5) is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of paragraphs (1) through (4).

"(b) EXCLUSIONS.—The term 'swap agreement' does not include—

"(1) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof;

"(2) any put, call, straddle, option, or privilege entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 relating to foreign currency;

"(3) any agreement, contract, or transaction providing for the purchase or sale of one or more securities on a fixed basis;

"(4) any agreement, contract, or transaction providing for the purchase or sale of one or more securities on a contingent basis, unless such agreement, contract, or transaction predicates such purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;

"(5) any note, bond, or evidence of indebtedness that is a security as defined in section 2(a)(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934; or

"(6) any agreement, contract, or transaction that is—

"(A) based on a security; and

"(B) entered into directly or through an underwriter (as defined in section 2(a) of the Securities Act of 1933) by the issuer of such security for the purposes of raising capital, unless such agreement, contract, or transaction is entered into to manage a risk associated with capital raising.

"(c) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—As used in this section, the term 'swap agreement' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a swap agreement pursuant to subsections (a) and (b), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap agreement pursuant to subsections (a) and (b), except that the master agreement shall be considered to be a swap agreement only with respect to each agreement, contract, or transaction under the master agreement that is a swap agreement pursuant to subsections (a) and (b).

"SEC. 206B. SECURITY-BASED SWAP AGREEMENT.

"As used in this section, the term 'security-based swap agreement' means a swap agreement (as defined in section 206A) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.

"SEC. 206C. NON-SECURITY-BASED SWAP AGREEMENT.

"As used in this section, the term 'non-security-based swap agreement' means any swap agreement (as defined in section 206A) that is not a security-based swap agreement (as defined in section 206B).".

(b) SECURITY DEFINITION.—As used in the amendment made by subsection (a), the term "security" has the same meaning as in section 2(a)(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934.

SEC. 302. AMENDMENTS TO THE SECURITIES ACT OF 1933.

(a) ENFORCEMENT FOCUS.—The Securities Act of 1933 is amended by inserting after section 2 (15 U.S.C. 77b) the following new section:

"SEC. 2A. SWAP AGREEMENTS.

"(a) NON-SECURITY-BASED SWAP AGREEMENTS.—The definition of 'security' in section 2(a)(1) of this title does not include any non-security-based swap agreement (as defined in section 206C of the Gramm-Leach-Bliley Act).

"(b) SECURITY-BASED SWAP AGREEMENTS.—

"(1) The definition of 'security' in section 2(a)(1) of this title does not include any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act).

"(2) The Commission is prohibited from registering, or requiring, recommending, or suggesting, the registration under this title of any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act). If the Commission becomes aware that a registrant has filed a registration

statement with respect to such a swap agreement, the Commission shall promptly so notify the registrant. Any such registration statement with respect to such a swap agreement shall be void and of no force or effect.

"(3) The Commission is prohibited from—

"(A) promulgating, interpreting, or enforcing rules; or

"(B) issuing orders of general applicability;

under this title in a manner that imposes or specifies reporting or recordkeeping requirements, procedures, or standards as prophylactic measures against fraud, manipulation, or insider trading with respect to any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act).

"(4) References in this title to the 'purchase' or 'sale' of a security-based swap agreement shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act), as the context may require.".

(b) ANTI-FRAUD AND ANTI-MANIPULATION ENFORCEMENT AUTHORITY.—Section 17(a) of the Securities Act of 1933 (15 U.S.C. 77q(a)) is amended to read as follows:

"(a) It shall be unlawful for any person in the offer or sale of any securities or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly—

"(1) to employ any device, scheme, or artifice to defraud, or

"(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

"(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.".

(c) LIMITATION.—Section 17 of the Securities Act of 1933 is amended by adding at the end the following new subsection:

"(d) The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 2A(b) of this title.".

SEC. 303. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) ENFORCEMENT FOCUS.—The Securities Exchange Act of 1934 is amended by inserting after section 3 (15 U.S.C. 78c) the following new section:

"SEC. 3A. SWAP AGREEMENTS.

"(a) NON-SECURITY-BASED SWAP AGREEMENTS.—The definition of 'security' in section 3(a)(10) of this title does not include any non-security-based swap agreement (as defined in section 206C of the Gramm-Leach-Bliley Act).

"(b) SECURITY-BASED SWAP AGREEMENTS.—

"(1) The definition of 'security' in section 3(a)(10) of this title does not include any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act).

"(2) The Commission is prohibited from registering, or requiring, recommending, or suggesting, the registration under this title of any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act). If the Commission becomes aware that a registrant has filed a registration application with respect to such a swap agreement, the Commission shall promptly so notify the registrant. Any such registration with respect to such a swap agreement shall be void and of no force or effect.

"(3) Except as provided in section 16(a) with respect to reporting requirements, the Commission is prohibited from—

"(A) promulgating, interpreting, or enforcing rules; or

"(B) issuing orders of general applicability;

under this title in a manner that imposes or specifies reporting or recordkeeping requirements, procedures, or standards as prophylactic measures against fraud, manipulation, or insider trading with respect to any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act).

"(4) References in this title to the 'purchase' or 'sale' of a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap agreement, as the context may require.".

(b) ANTI-FRAUD, ANTI-MANIPULATION ENFORCEMENT AUTHORITY.—Paragraphs (2) through (5) of section 9(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(a)(2)–(5)) are amended to read as follows:

"(2) To effect, alone or with one or more other persons, a series of transactions in any security registered on a national securities exchange or in connection with any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

"(3) If a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, to induce the purchase or sale of any security registered on a national securities exchange or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.

"(4) If a dealer or broker, or the person selling or offering for sale or purchasing or offering to purchase the security or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, to make, regarding any security registered on a national securities exchange or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, for the purpose of inducing the purchase or sale of such security or

such security-based swap agreement, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which he knew or had reasonable ground to believe was so false or misleading.

"(5) For a consideration, received directly or indirectly from a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security, to induce the purchase of any security registered on a national securities exchange or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.".

(c) LIMITATION.—Section 9 of the Securities Exchange Act of 1934 is amended by adding at the end the following new subsection:

"(i) The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 3A(b) of this title.".

(d) REGULATIONS ON THE USE OF MANIPULATIVE AND DECEPTIVE DEVICES.—Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended—

(1) in subsection (b), by inserting "or any securities-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act)," before "any manipulative or deceptive device"; and

(2) by adding at the end the following:

"Rules promulgated under subsection (b) that prohibit fraud, manipulation, or insider trading (but not rules imposing or specifying reporting or recordkeeping requirements, procedures, or standards as prophylactic measures against fraud, manipulation, or insider trading), and judicial precedents decided under subsection (b) and rules promulgated thereunder that prohibit fraud, manipulation, or insider trading, shall apply to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) to the same extent as they apply to securities. Judicial precedents decided under section 17(a) of the Securities Act of 1933 and sections 9, 15, 16, 20, and 21A of this title, and judicial precedents decided under applicable rules promulgated under such sections, shall apply to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) to the same extent as they apply to securities.".

(e) BROKER, DEALER ANTI-FRAUD, ANTI-MANIPULATION ENFORCEMENT AUTHORITY.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended to read as follows:

"(c)(1)(A) No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member, or any security-based

swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act), by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(B) No municipal securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving a municipal security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or to attempt to induce the purchase or sale of, any government security or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving a government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.".

(f) LIMITATION.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(i) The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 3A(b) of this title.".

(g) ANTI-INSIDER TRADING ENFORCEMENT AUTHORITY.—Subsections (a) and (b) of section 16 (15 U.S.C. 78p(a), (b)) of the Securities Exchange of 1934 are amended to read as follows:

"(a) Every person who is directly or indirectly the beneficial owner of more than 10 per centum of any class of any equity security (other than an exempted security) which is registered pursuant to section 12 of this title, or who is a director or an officer of the issuer of such security, shall file, at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 12(g) of this title, or within ten days after he becomes such beneficial owner, director, or officer, a statement with the Commission (and, if such security is registered on a national securities exchange, also with the exchange) of the amount of all equity securities of such issuer of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security during such month, shall file with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement indicating his ownership at the close of the calendar month and such changes in his ownership and such purchases and sales of such security-based swap agreements as have occurred during such calendar month.

"(b) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of his relationship to the issuer, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such issuer (other than an exempted security) or a security-based swap agreement (as defined

in section 206B of the Gramm-Leach-Bliley Act) involving any such equity security within any period of less than six months, unless such security or security-based swap agreement was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security or security-based swap agreement purchased or of not repurchasing the security or security-based swap agreement sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purpose of this subsection.".

(h) LIMITATION.—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end the following new subsection:

"(g) The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 3A(b) of this title.".

(i) MATERIAL NONPUBLIC INFORMATION.—Section 20(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(d)) is amended to read as follows:

"(d) Wherever communicating, or purchasing or selling a security while in possession of, material nonpublic information would violate, or result in liability to any purchaser or seller of the security under any provisions of this title, or any rule or regulation thereunder, such conduct in connection with a purchase or sale of a put, call, straddle, option, privilege or security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) with respect to such security or with respect to a group or index of securities including such security, shall also violate and result in comparable liability to any purchaser or seller of that security under such provision, rule, or regulation.".

(j) LIMITATION.—Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended by adding at the end the following new subsection:

"(f) The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 3A(b) of this title.".

(k) CIVIL PENALTIES.—Section 21A(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(1)) is amended by inserting after "purchasing or selling a security" the following: "or security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act)".

(l) LIMITATION.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended by adding at the end the following new subsection:

"(g) The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 3A(b) of this title.".

SEC. 304. SAVINGS PROVISIONS.

Nothing in this Act or the amendments made by this Act shall be construed as finding or implying that any swap agreement is or is not a security for any purpose under the securities laws. Nothing in this Act or the amendments made by this Act shall be construed as finding or implying that any swap agreement is or is not a futures contract or commodity option for any purpose under the Commodity Exchange Act.

TITLE IV—REGULATORY RESPONSIBILITY FOR BANK PRODUCTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Legal Certainty for Bank Products Act of 2000".

SEC. 402. DEFINITIONS.

(a) BANK.—In this title, the term "bank" means—

(1) any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act);

(2) any foreign bank or branch or agency of a foreign bank (each as defined in section 1(b) of the International Banking Act of 1978);

(3) any Federal or State credit union (as defined in section 101 of the Federal Credit Union Act);

(4) any corporation organized under section 25A of the Federal Reserve Act;

(5) any corporation operating under section 25 of the Federal Reserve Act;

(6) any trust company; or

(7) any subsidiary of any entity described in paragraph (1) through (6) of this subsection, if the subsidiary is regulated as if the subsidiary were part of the entity and is not a broker or dealer (as such terms are defined in section 3 of the Securities Exchange Act of 1934) or a futures commission merchant (as defined in section 1a(20) of the Commodity Exchange Act).

(b) IDENTIFIED BANKING PRODUCT.—In this title, the term "identified banking product" shall have the same meaning as in paragraphs (1) through (5) of section 206(a) of the Gramm-Leach-Bliley Act, except that in applying such section for purposes of this title—

(1) the term "bank" shall have the meaning given in subsection (a) of this section; and

(2) the term "qualified investor" means eligible contract participant (as defined in section 1a(12) of the Commodity Exchange Act, as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000).

(c) HYBRID INSTRUMENT.—In this title, the term "hybrid instrument" means an identified banking product not excluded by section 403 of this Act, offered by a bank, having one or more payments indexed to the value, level, or rate of, or providing for the delivery of, one or more commodities (as defined in section 1a(4) of the Commodity Exchange Act).

(d) COVERED SWAP AGREEMENT.—In this title, the term "covered swap agreement" means a swap agreement (as defined in section 206(b) of the Gramm-Leach-Bliley Act), including a credit or equity swap, based on a commodity other than an agricultural commodity enumerated in section 1a(4) of the Commodity Exchange Act if—

(1) the swap agreement—

(A) is entered into only between persons that are eligible contract participants (as defined in section 1a(12) of the Commodity Exchange Act, as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000) at the time the persons enter into the swap agreement; and

(B) is not entered into or executed on a trading facility (as defined in section 1a(33) of the Commodity Exchange Act); or

(2) the swap agreement—

(A) is entered into or executed on an electronic trading facility (as defined in section 1a(10) of the Commodity Exchange Act);

(B) is entered into on a principal-to-principal basis between parties trading for their own accounts or as described in section 1a(12)(B)(ii) of the Commodity Exchange Act;

(C) is entered into only between persons that are eligible contract participants as described in subparagraph (A), (B)(ii), or (C) of section 1a(12) of the Commodity Exchange Act, as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000, at the time the persons enter into the swap agreement; and

(D) is an agreement, contract or transaction in an excluded commodity (as defined in section 1a(13) of the Commodity Exchange Act).

SEC. 403. EXCLUSION OF IDENTIFIED BANKING PRODUCTS COMMONLY OFFERED ON OR BEFORE DECEMBER 5, 2000.

No provision of the Commodity Exchange Act shall apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority with respect to, an identified banking product if—

(1) an appropriate banking agency certifies that the product has been commonly offered, entered into, or provided in the United States by any bank on or before December 5, 2000, under applicable banking law; and

(2) the product was not prohibited by the Commodity Exchange Act and not regulated by the Commodity Futures Trading Commission as a contract of sale of a commodity for future delivery (or an option on such a contract) or an option on a commodity, on or before December 5, 2000.

SEC. 404. EXCLUSION OF CERTAIN IDENTIFIED BANKING PRODUCTS OFFERED BY BANKS AFTER DECEMBER 5, 2000.

No provision of the Commodity Exchange Act shall apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority with respect to, an identified banking product which had not been commonly offered, entered into, or provided in the United States by any bank on or before December 5, 2000, under applicable banking law if—

(1) the product has no payment indexed to the value, level, or rate of, and does not provide for the delivery of, any commodity (as defined in section 1a(4) of the Commodity Exchange Act); or

(2) the product or commodity is otherwise excluded from the Commodity Exchange Act.

SEC. 405. EXCLUSION OF CERTAIN OTHER IDENTIFIED BANKING PRODUCTS.

(a) IN GENERAL.—No provision of the Commodity Exchange Act shall apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority with respect to, a banking product if the product is a hybrid instrument that is predominantly a banking product under the predominance test set forth in subsection (b).

(b) PREDOMINANCE TEST.—A hybrid instrument shall be considered to be predominantly a banking product for purposes of this section if—

(1) the issuer of the hybrid instrument receives payment in full of the purchase price of the hybrid instrument substantially contemporaneously with delivery of the hybrid instrument;

(2) the purchaser or holder of the hybrid instrument is not required to make under the terms of the instrument, or any arrangement referred to in the instrument, any payment to the issuer in addition to the purchase price referred to in paragraph (1), whether as margin, settlement payment, or otherwise during the life of the hybrid instrument or at maturity;

(3) the issuer of the hybrid instrument is not subject by the terms of the instrument to mark-to-market margining requirements; and

(4) the hybrid instrument is not marketed as a contract of sale of a commodity for future delivery (or option on such a contract) subject to the Commodity Exchange Act.

(c) MARK-TO-MARKET MARGINING REQUIREMENT.—For purposes of subsection (b)(3), mark-to-market margining requirements shall not include the obligation of an issuer of a secured debt instrument to increase the amount of collateral held in pledge for the benefit of the purchaser of the secured debt instrument to secure the repayment obligations of the issuer under the secured debt instrument.

SEC. 406. ADMINISTRATION OF THE PREDOMINANCE TEST.

(a) IN GENERAL.—No provision of the Commodity Exchange Act shall apply to, and the Commodity Futures Trading Commission shall not regulate, a hybrid instrument, unless the Commission determines, by or under a rule issued in accordance with this section, that—

(1) the action is necessary and appropriate in the public interest;

(2) the action is consistent with the Commodity Exchange Act and the purposes of the Commodity Exchange Act; and

(3) the hybrid instrument is not predominantly a banking product under the predominance test set forth in section 405(b) of this Act.

(b) CONSULTATION.—Before commencing a rulemaking or making a determination pursuant to a rule issued under this title, the Commodity Futures Trading Commission shall consult with and seek the concurrence of the Board of Governors of the Federal Reserve System concerning—

(1) the nature of the hybrid instrument; and

(2) the history, purpose, extent, and appropriateness of the regulation of the hybrid instrument under the Commodity Exchange Act and under appropriate banking laws.

(c) OBJECTION TO COMMISSION REGULATION.—

(1) FILING OF PETITION FOR REVIEW.—The Board of Governors of the Federal Reserve System may obtain review of any rule or determination referred to in subsection (a) in the United States Court of Appeals for the District of Columbia Circuit by filing in the court, not later than 60 days after the date of publication of the rule or determination, a written petition requesting that the rule or determination be set aside. Any proceeding to challenge any such rule or determination shall be expedited by the court.

(2) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in paragraph (1) shall be transmitted as soon as possible by the Clerk of the court to an officer or employee of the Commodity Futures Trading Commission designated for that purpose. Upon receipt of the petition, the Commission shall file with the court the rule or determination under review and any documents referred to therein, and any other relevant materials prescribed by the court.

(3) EXCLUSIVE JURISDICTION.—On the date of the filing of a petition under paragraph (1), the court shall have jurisdiction, which shall become exclusive on the filing of the materials set forth in paragraph (2), to affirm and enforce or to set aside the rule or determination at issue.

(4) STANDARD OF REVIEW.—The court shall determine to affirm and enforce or set aside a rule or determination of the Commodity Futures Trading Commission under this section, based on the determination of the court as to whether—

(A) the subject product is predominantly a banking product; and

(B) making the provision or provisions of the Commodity Exchange Act at issue applicable to the subject instrument is appropriate in light of the history, purpose, and extent of regulation under such Act, this title, and under the appropriate banking laws, giving deference neither to the views of the Commodity Futures Trading Commission nor the Board of Governors of the Federal Reserve System.

(5) JUDICIAL STAY.—The filing of a petition by the Board pursuant to paragraph (1) shall operate as a judicial stay, until the date on which the determination of the court is final (including any appeal of the determination).

(6) OTHER AUTHORITY TO CHALLENGE.—Any aggrieved party may seek judicial review pursuant to section 6(c) of the Commodity Exchange Act of a determination or rulemaking by the Commodity Futures Trading Commission under this section.

SEC. 407. EXCLUSION OF COVERED SWAP AGREEMENTS.

No provision of the Commodity Exchange Act (other than section 5b of such Act with respect to the clearing of covered swap agreements) shall apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority with respect to, a covered swap agreement offered, entered into, or provided by a bank.

SEC. 408. CONTRACT ENFORCEMENT.

(a) HYBRID INSTRUMENTS.—No hybrid instrument shall be void, voidable, or unenforceable, and no party to a hybrid instrument shall be entitled to rescind, or recover any payment made with respect to, a hybrid instrument under any provision of Federal or State law, based solely on the failure of the hybrid instrument to satisfy the predominance test set forth in section 405(b) of this Act or to comply with the terms or conditions of an exemption or exclusion from any provision of the Commodity Exchange Act or any regulation of the Commodity Futures Trading Commission.

(b) COVERED SWAP AGREEMENTS.—No covered swap agreement shall be void, voidable, or unenforceable, and no party to a covered swap agreement shall be entitled to rescind, or recover any payment made with respect to, a covered swap agreement under any provision of Federal or State law, based solely on the failure of the covered swap agreement to comply with the terms or conditions of an exemption or exclusion from any provision of the Commodity Exchange Act or any regulation of the Commodity Futures Trading Commission.

(c) PREEMPTION.—This title shall supersede and preempt the application of any State or local law that prohibits or regulates gaming or the operation of bucket shops (other than antifraud provisions of general applicability) in the case of—

(1) a hybrid instrument that is predominantly a banking product; or

(2) a covered swap agreement.

APPENDIX F—H.R. 5661

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO OTHER ACTS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OTHER ACTS.—In this Act:

(1) BALANCED BUDGET ACT OF 1997.—The term "BBA" means the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 251).

(2) MEDICARE, MEDICAID, AND SCHIP BALANCED BUDGET REFINEMENT ACT OF 1999.—The term "BBRA" means the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to other Acts; table of contents.

TITLE I—MEDICARE BENEFICIARY IMPROVEMENTS

Subtitle A—Improved Preventive Benefits

Sec. 101. Coverage of biennial screening pap smear and pelvic exams.
Sec. 102. Coverage of screening for glaucoma.
Sec. 103. Coverage of screening colonoscopy for average risk individuals.
Sec. 104. Modernization of screening mammography benefit.
Sec. 105. Coverage of medical nutrition therapy services for beneficiaries with diabetes or a renal disease.

Subtitle B—Other Beneficiary Improvements

Sec. 111. Acceleration of reduction of beneficiary copayment for hospital outpatient department services.
Sec. 112. Preservation of coverage of drugs and biologicals under part B of the medicare program.
Sec. 113. Elimination of time limitation on medicare benefits for immunosuppressive drugs.
Sec. 114. Imposition of billing limits on drugs.
Sec. 115. Waiver of 24-month waiting period for medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS).

Subtitle C—Demonstration Projects and Studies

Sec. 121. Demonstration project for disease management for severely chronically ill medicare beneficiaries.
Sec. 122. Cancer prevention and treatment demonstration for ethnic and racial minorities.

Sec. 123. Study on medicare coverage of routine thyroid screening.
Sec. 124. MedPAC study on consumer coalitions.
Sec. 125. Study on limitation on State payment for medicare cost-sharing affecting access to services for qualified medicare beneficiaries.
Sec. 126. Studies on preventive interventions in primary care for older Americans.
Sec. 127. MedPAC study and report on medicare coverage of cardiac and pulmonary rehabilitation therapy services.
Sec. 128. Lifestyle modification program demonstration.

TITLE II—RURAL HEALTH CARE IMPROVEMENTS

Subtitle A—Critical Access Hospital Provisions

Sec. 201. Clarification of no beneficiary cost-sharing for clinical diagnostic laboratory tests furnished by critical access hospitals.
Sec. 202. Assistance with fee schedule payment for professional services under all-inclusive rate.
Sec. 203. Exemption of critical access hospital swing beds from SNF PPS.
Sec. 204. Payment in critical access hospitals for emergency room on-call physicians.
Sec. 205. Treatment of ambulance services furnished by certain critical access hospitals.
Sec. 206. GAO study on certain eligibility requirements for critical access hospitals.

Subtitle B—Other Rural Hospitals Provisions

Sec. 211. Treatment of rural disproportionate share hospitals.
Sec. 212. Option to base eligibility for medicare dependent, small rural hospital program on discharges during two of the three most recently audited cost reporting periods.
Sec. 213. Extension of option to use rebased target amounts to all sole community hospitals.
Sec. 214. MedPAC analysis of impact of volume on per unit cost of rural hospitals with psychiatric units.

Subtitle C—Other Rural Provisions

Sec. 221. Assistance for providers of ambulance services in rural areas.
Sec. 222. Payment for certain physician assistant services.
Sec. 223. Revision of medicare reimbursement for telehealth services.
Sec. 224. Expanding access to rural health clinics.
Sec. 225. MedPAC study on low-volume, isolated rural health care providers.

TITLE III—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 301. Revision of acute care hospital payment update for 2001.
Sec. 302. Additional modification in transition for indirect medical education (IME) percentage adjustment.
Sec. 303. Decrease in reductions for disproportionate share hospital (DSH) payments.
Sec. 304. Wage index improvements.
Sec. 305. Payment for inpatient services of rehabilitation hospitals.
Sec. 306. Payment for inpatient services of psychiatric hospitals.
Sec. 307. Payment for inpatient services of long-term care hospitals.

Subtitle B—Adjustments to PPS Payments for Skilled Nursing Facilities

Sec. 311. Elimination of reduction in skilled nursing facility (SNF) market basket update in 2001.
Sec. 312. Increase in nursing component of PPS Federal rate.
Sec. 313. Application of SNF consolidated billing requirement limited to part A covered stays.
Sec. 314. Adjustment of rehabilitation RUGs to correct anomaly in payment rates.
Sec. 315. Establishment of process for geographic reclassification.

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TITLE IV—PROVISIONS RELATING TO PART B

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Sec. 411. GAO studies relating to physicians' services.
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Sec. 421. One-year extension of moratorium on therapy caps; report on standards for supervision of physical therapy assistants.
Sec. 422. Update in renal dialysis composite rate.
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Sec. 428. Replacement of prosthetic devices and parts.
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Sec. 433. GAO study on coverage of surgical first assisting services of certified registered nurse first assistants.
Sec. 434. MedPAC study and report on medicare reimbursement for services provided by certain providers.
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Sec. 436. GAO study and report on the costs of emergency and medical transportation services.
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TITLE V—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 501. One-year additional delay in application of 15 percent reduction on payment limits for home health services.
Sec. 502. Restoration of full home health market basket update for home health services for fiscal year 2001.
Sec. 503. Temporary two-month periodic interim payment.
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Sec. 505. Study on costs to home health agencies of purchasing nonroutine medical supplies.
Sec. 506. Treatment of branch offices; GAO study on supervision of home health care provided in isolated rural areas.
Sec. 507. Clarification of the homebound definition under the medicare home health benefit.
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Sec. 511. Increase in floor for direct graduate medical education payments.
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TITLE VII—MEDICAID

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Sec. 921. Increase in authorization of appropriations for the maternal and child health services block grant.

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Sec. 941. Posting of information on nursing facility staffing.

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Sec. 951. Multiemployer plan benefits guaranteed.

TITLE I—MEDICARE BENEFICIARY IMPROVEMENTS

Subtitle A—Improved Preventive Benefits

SEC. 101. COVERAGE OF BIENNIAL SCREENING PAP SMEAR AND PELVIC EXAMS.

(a) IN GENERAL.—

(1) BIENNIAL SCREENING PAP SMEAR.—Section 1861(nn)(1) (42 U.S.C. 1395x(nn)(1)) is amended by striking "3 years" and inserting "2 years".

(2) BIENNIAL SCREENING PELVIC EXAM.—Section 1861(nn)(2) (42 U.S.C. 1395x(nn)(2)) is amended by striking "3 years" and inserting "2 years".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after July 1, 2001.

SEC. 102. COVERAGE OF SCREENING FOR GLAUCOMA.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

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

(2) by inserting "and" at the end of subparagraph (T); and

(3) by adding at the end the following:

"(U) screening for glaucoma (as defined in subsection (uu)) for individuals determined to be at high risk for glaucoma, individuals with a family history of glaucoma and individuals with diabetes;".

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Screening for Glaucoma

"(uu) The term 'screening for glaucoma' means a dilated eye examination with an intraocular pressure measurement, and a direct ophthalmoscopy or a slit-lamp biomicroscopic examination for the early detection of glaucoma which is furnished by or under the direct supervision of an optometrist or ophthalmologist who is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, if the individual involved has not had such an examination in the preceding year.".

(c) CONFORMING AMENDMENT.—Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended—

(1) by striking "and,"; and

(2) by adding at the end the following: "and, in the case of screening for glaucoma, which is performed more frequently than is provided under section 1861(uu),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2002.

SEC. 103. COVERAGE OF SCREENING COLONOSCOPY FOR AVERAGE RISK INDIVIDUALS.

(a) IN GENERAL.—Section 1861(pp) (42 U.S.C. 1395x(pp)) is amended—

(1) in paragraph (1)(C), by striking "In the case of an individual at high risk for colorectal cancer, screening colonoscopy" and inserting "Screening colonoscopy"; and

(2) in paragraph (2), by striking "In paragraph (1)(C), an" and inserting "An".

(b) FREQUENCY LIMITS FOR SCREENING COLONOSCOPY.—Section 1834(d) (42 U.S.C. 1395m(d)) is amended—

(1) in paragraph (2)(E)(ii), by inserting before the period at the end the following: "or, in the case of an individual who is not at high risk for colorectal cancer, if the procedure is performed within the 119 months after a previous screening colonoscopy"; and

(2) in paragraph (3)—

(A) in the heading by striking "FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER";

(B) in subparagraph (A), by striking "for individuals at high risk for colorectal cancer (as defined in section 1861(pp)(2))"; and

(C) in subparagraph (E), by inserting before the period at the end the following: "or for other individuals if the procedure is performed within the 119 months after a previous screening colonoscopy or within 47 months after a previous screening flexible sigmoidoscopy".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to colorectal cancer screening services provided on or after July 1, 2001.

SEC. 104. MODERNIZATION OF SCREENING MAMMOGRAPHY BENEFIT.

(a) INCLUSION IN PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(13)," after "(4),".

(b) CONFORMING AMENDMENT.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended to read as follows:

"(c) PAYMENT AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—With respect to expenses incurred for screening mammography (as defined in section 1861(jj)), payment may be made only—

"(A) for screening mammography conducted consistent with the frequency permitted under paragraph (2); and

"(B) if the screening mammography is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) no payment may be made under this part for screening mammography performed on a woman under 35 years of age;

"(ii) payment may be made under this part for only one screening mammography performed on a woman over 34 years of age, but under 40 years of age; and

"(iii) in the case of a woman over 39 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to screening mammographies furnished on or after January 1, 2002.

(d) PAYMENT FOR NEW TECHNOLOGIES.—

(1) TESTS FURNISHED IN 2001.—

(A) SCREENING.—For a screening mammography (as defined in section 1861(jj) of the Social Security Act (42 U.S.C. 1395x(jj))) furnished during the period beginning on April 1, 2001, and ending on December 31, 2001, that uses a new technology, payment for such screening mammography shall be made as follows:

(i) In the case of a technology which directly takes a digital image (without involving film), in an amount equal to 150 percent of the amount of payment under section 1848 of such Act (42 U.S.C. 1395w–4) for a bilateral diagnostic mammography (under HCPCS code 76091) for such year.

(ii) In the case of a technology which allows conversion of a standard film mammogram into a digital image and subsequently analyzes such resulting image with software to identify possible problem areas, in an amount equal to the limit that would otherwise be applied under section 1834(c)(3) of such Act (42 U.S.C. 1395m(c)(3)) for 2001, increased by $15.

(B) BILATERAL DIAGNOSTIC MAMMOGRAPHY.—For a bilateral diagnostic mammography furnished during the period beginning on April 1, 2001, and ending on December 31, 2001, that uses a new technology described in subparagraph (A), payment for such mammography shall be the amount of payment provided for under such subparagraph.

(C) ALLOCATION OF AMOUNTS.—The Secretary shall provide for an appropriate allocation of the amounts under subparagraphs (A) and (B) between the professional and technical components.

(D) IMPLEMENTATION OF PROVISION.—The Secretary of Health and Human Services may implement the provisions of this paragraph by program memorandum or otherwise.

(2) CONSIDERATION OF NEW HCPCS CODE FOR NEW TECHNOLOGIES AFTER 2001.—The Secretary shall determine, for such mammographies performed after 2001, whether the assignment of a new HCPCS code is appropriate for mammography that uses a new technology. If the Secretary determines that a new code is appropriate for such mammography, the Secretary shall provide for such new code for such tests furnished after 2001.

(3) NEW TECHNOLOGY DESCRIBED.—For purposes of this subsection, a new technology with respect to a mammography is an advance in technology with respect to the test or equipment that results in the following:

(A) A significant increase or decrease in the resources used in the test or in the manufacture of the equipment.

(B) A significant improvement in the performance of the test or equipment.

(C) A significant advance in medical technology that is expected to significantly improve the treatment of medicare beneficiaries.

(4) HCPCS CODE DEFINED.—The term "HCPCS code" means a code under the Health Care Financing Administration Common Procedure Coding System (HCPCS).

SEC. 105. COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES FOR BENEFICIARIES WITH DIABETES OR A RENAL DISEASE.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 102(a), is amended—

(1) in subparagraph (T), by striking "and" at the end;

(2) in subparagraph (U), by inserting "and" at the end; and

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

"(V) medical nutrition therapy services (as defined in subsection (vv)(1)) in the case of a beneficiary with diabetes or a renal disease who—

"(i) has not received diabetes outpatient self-management training services within a time period determined by the Secretary;

"(ii) is not receiving maintenance dialysis for which payment is made under section 1881; and

"(iii) meets such other criteria determined by the Secretary after consideration of protocols established by dietitian or nutrition professional organizations;".

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 102(b), is amended by adding at the end the following:

"Medical Nutrition Therapy Services; Registered Dietitian or Nutrition Professional

"(vv)(1) The term 'medical nutrition therapy services' means nutritional diagnostic, therapy, and counseling services for the purpose of disease management which are furnished by a registered dietitian or nutrition professional (as defined in paragraph (2)) pursuant to a referral by a physician (as defined in subsection (r)(1)).

"(2) Subject to paragraph (3), the term 'registered dietitian or nutrition professional' means an individual who—

"(A) holds a baccalaureate or higher degree granted by a regionally accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics, as accredited by an appropriate national accreditation organization recognized by the Secretary for this purpose;

"(B) has completed at least 900 hours of supervised dietetics practice under the supervision of a registered dietitian or nutrition professional; and

"(C)(i) is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed; or

"(ii) in the case of an individual in a State that does not provide for such licensure or certification, meets such other criteria as the Secretary establishes.

"(3) Subparagraphs (A) and (B) of paragraph (2) shall not apply in the case of an individual who, as of the date of the enactment of this subsection, is licensed or certified as a dietitian

or nutrition professional by the State in which medical nutrition therapy services are performed.".

(c) PAYMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking "and" before "(S)"; and

(2) by inserting before the semicolon at the end the following: ", and (T) with respect to medical nutrition therapy services (as defined in section 1861(vv)), the amount paid shall be 80 percent of the lesser of the actual charge for the services or 85 percent of the amount determined under the fee schedule established under section 1848(b) for the same services if furnished by a physician".

(d) APPLICATION OF LIMITS ON BILLING.—Section 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

"(vi) A registered dietitian or nutrition professional.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2002.

(f) STUDY.—Not later than July 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that contains recommendations with respect to the expansion to other medicare beneficiary populations of the medical nutrition therapy services benefit (furnished under the amendments made by this section).

Subtitle B—Other Beneficiary Improvements

SEC. 111. ACCELERATION OF REDUCTION OF BENEFICIARY COPAYMENT FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) REDUCING THE UPPER LIMIT ON BENEFICIARY COPAYMENT.—

(1) IN GENERAL.—Section 1833(t)(8)(C) (42 U.S.C. 1395l(t)(8)(C)) is amended to read as follows:

"(C) LIMITATION ON COPAYMENT AMOUNT.—

"(i) TO INPATIENT HOSPITAL DEDUCTIBLE AMOUNT.—In no case shall the copayment amount for a procedure performed in a year exceed the amount of the inpatient hospital deductible established under section 1813(b) for that year.

"(ii) TO SPECIFIED PERCENTAGE.—The Secretary shall reduce the national unadjusted copayment amount for a covered OPD service (or group of such services) furnished in a year in a manner so that the effective copayment rate (determined on a national unadjusted basis) for that service in the year does not exceed the following percentage:

"(I) For procedures performed in 2001, on or after April 1, 2001, 57 percent.

"(II) For procedures performed in 2002 or 2003, 55 percent.

"(III) For procedures performed in 2004, 50 percent.

"(IV) For procedures performed in 2005, 45 percent.

"(V) For procedures performed in 2006 and thereafter, 40 percent.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after April 1, 2001.

(b) CONSTRUCTION REGARDING LIMITING INCREASES IN COST-SHARING.—Nothing in this Act or the Social Security Act shall be construed as preventing a hospital from waiving the amount of any coinsurance for outpatient hospital services under the medicare program under title XVIII of the Social Security Act that may have been increased as a result of the implementation of the prospective payment system under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

(c) GAO STUDY OF REDUCTION IN MEDIGAP PREMIUM LEVELS RESULTING FROM REDUCTIONS IN COINSURANCE.—The Comptroller General of the United States shall work, in concert with the National Association of Insurance Commissioners, to evaluate the extent to which the premium levels for medicare supplemental policies reflect the reductions in coinsurance resulting from the amendment made by subsection (a). Not later than April 1, 2004, the Comptroller General shall submit to Congress a report on such evaluation and the extent to which the reductions in beneficiary coinsurance effected by such amendment have resulted in actual savings to medicare beneficiaries.

SEC. 112. PRESERVATION OF COVERAGE OF DRUGS AND BIOLOGICALS UNDER PART B OF THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended, in each of subparagraphs (A) and (B), by striking "(including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered)" and inserting "(including drugs and biologicals which are not usually self-administered by the patient)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs and biologicals administered on or after the date of the enactment of this Act.

SEC. 113. ELIMINATION OF TIME LIMITATION ON MEDICARE BENEFITS FOR IMMUNOSUPPRESSIVE DRUGS.

(a) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking ", but only" and all that follows up to the semicolon at the end.

(b) CONFORMING AMENDMENTS.—

(1) EXTENDED COVERAGE.—Section 1832 (42 U.S.C. 1395k) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(2) PASS-THROUGH; REPORT.—Section 227 of BBRA is amended by striking subsection (d).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs furnished on or after the date of the enactment of this Act.

SEC. 114. IMPOSITION OF BILLING LIMITS ON DRUGS.

(a) IN GENERAL.—Section 1842(o) (42 U.S.C. 1395u(o)) is amended by adding at the end the following new paragraph:

"(3)(A) Payment for a charge for any drug or biological for which payment may be made under this part may be made only on an assignment-related basis.

"(B) The provisions of subsection (b)(18)(B) shall apply to charges for such drugs or biologicals in the same manner as they apply to services furnished by a practitioner described in subsection (b)(18)(C).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 2001.

SEC. 115. WAIVER OF 24-MONTH WAITING PERIOD FOR MEDICARE COVERAGE OF INDIVIDUALS DISABLED WITH AMYOTROPHIC LATERAL SCLEROSIS (ALS).

(a) IN GENERAL.—Section 226 (42 U.S.C. 426) is amended—

(1) by redesignating subsection (h) as subsection (j) and by moving such subsection to the end of the section; and

(2) by inserting after subsection (g) the following new subsection:

"(h) For purposes of applying this section in the case of an individual medically determined to have amyotrophic lateral sclerosis (ALS), the following special rules apply:

"(1) Subsection (b) shall be applied as if there were no requirement for any entitlement to benefits, or status, for a period longer than 1 month.

"(2) The entitlement under such subsection shall begin with the first month (rather than twenty-fifth month) of entitlement or status.

"(3) Subsection (f) shall not be applied.".

(b) CONFORMING AMENDMENT.—Section 1837 (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(j) In applying this section in the case of an individual who is entitled to benefits under part A pursuant to the operation of section 226(h), the following special rules apply:

"(1) The initial enrollment period under subsection (d) shall begin on the first day of the first month in which the individual satisfies the requirement of section 1836(1).

"(2) In applying subsection (g)(1), the initial enrollment period shall begin on the first day of the first month of entitlement to disability insurance benefits referred to in such subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning July 1, 2001.

Subtitle C—Demonstration Projects and Studies

SEC. 121. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR SEVERELY CHRONICALLY ILL MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the "project") to demonstrate the impact on costs and health outcomes of applying disease management to medicare beneficiaries with diagnosed, advanced-stage congestive heart failure, diabetes, or coronary heart disease. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(A) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(B) their physicians approve of participation in the project; and

(C) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their chronic health condition; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the chronic health condition, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the medicare program under title XVIII of the Social Security Act) there will be a net reduction in expenditures under the medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the net reduction in expenditures described in subparagraph (B).

(3) PAYMENTS.—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(d) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) DURATION.—The project shall last for not longer than 3 years.

(f) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) REPORT.—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

SEC. 122. CANCER PREVENTION AND TREATMENT DEMONSTRATION FOR ETHNIC AND RACIAL MINORITIES.

(a) DEMONSTRATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects (in this section referred to as "demonstration projects") for the purpose of developing models and evaluating methods that—

(A) improve the quality of items and services provided to target individuals in order to facilitate reduced disparities in early detection and treatment of cancer;

(B) improve clinical outcomes, satisfaction, quality of life, and appropriate use of medicare-covered services and referral patterns among those target individuals with cancer;

(C) eliminate disparities in the rate of preventive cancer screening measures, such as pap smears and prostate cancer screenings, among target individuals; and

(D) promote collaboration with community-based organizations to ensure cultural competency of health care professionals and linguistic access for persons with limited English proficiency.

(2) TARGET INDIVIDUAL DEFINED.—In this section, the term "target individual" means an individual of a racial and ethnic minority group, as defined by section 1707 of the Public Health Service Act, who is entitled to benefits under part A, and enrolled under part B, of title XVIII of the Social Security Act.

(b) PROGRAM DESIGN.—

(1) INITIAL DESIGN.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall evaluate best practices in the private sector, community programs, and academic research of methods that reduce disparities among individuals of racial and ethnic minority groups in the prevention and treatment of cancer and shall design the demonstration projects based on such evaluation.

(2) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall implement at least nine demonstration projects, including the following:

(A) Two projects for each of the four following major racial and ethnic minority groups:

(i) American Indians, including Alaska Natives, Eskimos, and Aleuts.

(ii) Asian Americans and Pacific Islanders.

(iii) Blacks.

(iv) Hispanics.

The two projects must target different ethnic subpopulations.

(B) One project within the Pacific Islands.

(C) At least one project each in a rural area and inner-city area.

(3) EXPANSION OF PROJECTS; IMPLEMENTATION OF DEMONSTRATION PROJECT RESULTS.—If the initial report under subsection (c) contains an evaluation that demonstration projects—

(A) reduce expenditures under the medicare program under title XVIII of the Social Security Act; or

(B) do not increase expenditures under the medicare program and reduce racial and ethnic health disparities in the quality of health care services provided to target individuals and increase satisfaction of beneficiaries and health care providers;

the Secretary shall continue the existing demonstration projects and may expand the number of demonstration projects.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date the Secretary implements the initial demonstration projects, and biannually thereafter, the Secretary shall submit to Congress a report regarding the demonstration projects.

(2) CONTENTS OF REPORT.—Each report under paragraph (1) shall include the following:

(A) A description of the demonstration projects.

(B) An evaluation of—

(i) the cost-effectiveness of the demonstration projects;

(ii) the quality of the health care services provided to target individuals under the demonstration projects; and

(iii) beneficiary and health care provider satisfaction under the demonstration projects.

(C) Any other information regarding the demonstration projects that the Secretary determines to be appropriate.

(d) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(e) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) STATE PROJECTS.—Except as provided in subparagraph (B), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund under title XVIII of the Social Security Act, in such proportions as the Secretary determines to be appropriate, of such funds as are necessary for the costs of carrying out the demonstration projects.

(B) TERRITORY PROJECTS.—In the case of a demonstration project described in subsection (b)(2)(B), amounts shall be available only as provided in any Federal law making appropriations for the territories.

(2) LIMITATION.—In conducting demonstration projects, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the sum of the amount which the Secretary would have paid under the program for the prevention and treatment of cancer if the demonstration projects were not implemented, plus $25,000,000.

SEC. 123. STUDY ON MEDICARE COVERAGE OF ROUTINE THYROID SCREENING.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences, and as appropriate in conjunction with the United States Preventive Services Task Force, to conduct a study on the addition of coverage of routine thyroid screening using a thyroid stimulating hormone test as a preventive benefit provided to medicare beneficiaries under title XVIII of the Social Security Act for some or all medicare beneficiaries. In conducting the study, the Academy shall consider the short-term and long-term benefits, and costs to the medicare program, of such addition.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the findings of the study conducted under subsection (a) to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate.

SEC. 124. MEDPAC STUDY ON CONSUMER COALITIONS.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study that examines the use of consumer coalitions in the marketing of Medicare+Choice plans under the medicare program under title XVIII of the Social Security Act. The study shall examine—

(1) the potential for increased efficiency in the medicare program through greater beneficiary knowledge of their health care options, decreased marketing costs of Medicare+Choice organizations, and creation of a group market;

(2) the implications of Medicare+Choice plans and medicare supplemental policies (under section 1882 of the Social Security Act (42 U.S.C. 1395ss)) offering medicare beneficiaries in the same geographic location different benefits and premiums based on their affiliation with a consumer coalition;

(3) how coalitions should be governed, how they should be accountable to the Secretary of Health and Human Services, and how potential conflicts of interest in the activities of consumer coalitions should be avoided; and

(4) how such coalitions should be funded.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a). The report shall include a recommendation on whether and how a demonstration project might be conducted for the operation of consumer coalitions under the medicare program.

(c) CONSUMER COALITION DEFINED.—For purposes of this section, the term "consumer coalition" means a nonprofit, community-based group of organizations that—

(1) provides information to medicare beneficiaries about their health care options under the medicare program; and

(2) negotiates benefits and premiums for medicare beneficiaries who are members or otherwise affiliated with the group of organizations with Medicare+Choice organizations offering Medicare+Choice plans, issuers of medicare supplemental policies, issuers of long-term care coverage, and pharmacy benefit managers.

SEC. 125. STUDY ON LIMITATION ON STATE PAYMENT FOR MEDICARE COST-SHARING AFFECTING ACCESS TO SERVICES FOR QUALIFIED MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine if access to certain services (including mental health services) for qualified medicare beneficiaries has been affected by limitations on a State's payment for medicare cost-sharing for such beneficiaries under section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)). As part of such study, the Secretary shall analyze the effect of such payment limitation on providers who serve a disproportionate share of such beneficiaries.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study under subsection (a). The report shall include recommendations regarding any changes that should be made to the State payment limits under section 1902(n) for qualified medicare beneficiaries to ensure appropriate access to services.

SEC. 126. STUDIES ON PREVENTIVE INTERVENTIONS IN PRIMARY CARE FOR OLDER AMERICANS.

(a) STUDIES.—The Secretary of Health and Human Services, acting through the United States Preventive Services Task Force, shall conduct a series of studies designed to identify preventive interventions that can be delivered in the primary care setting and that are most valuable to older Americans.

(b) MISSION STATEMENT.—The mission statement of the United States Preventive Services Task Force is amended to include the evaluation of services that are of particular relevance to older Americans.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit to Congress a report on the conclusions of the studies conducted under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 127. MEDPAC STUDY AND REPORT ON MEDICARE COVERAGE OF CARDIAC AND PULMONARY REHABILITATION THERAPY SERVICES.

(a) STUDY.—

(1) IN GENERAL.—The Medicare Payment Advisory Commission shall conduct a study on coverage of cardiac and pulmonary rehabilitation therapy services under the medicare program under title XVIII of the Social Security Act.

(2) FOCUS.—In conducting the study under paragraph (1), the Commission shall focus on the appropriate—

(A) qualifying diagnoses required for coverage of cardiac and pulmonary rehabilitation therapy services;

(B) level of physician direct involvement and supervision in furnishing such services; and

(C) level of reimbursement for such services.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with such recommendations for legislation and administrative action as the Commission determines appropriate.

SEC. 128. LIFESTYLE MODIFICATION PROGRAM DEMONSTRATION.

(a) IN GENERAL.—The Secretary of Health and Human Services shall carry out the demonstration project known as the Lifestyle Modification Program Demonstration, as described in the Health Care Financing Administration Memorandum of Understanding entered into on November 13, 2000, and as subsequently modified, (in this section referred to as the "project") in accordance with the following requirements:

(1) The project shall include no fewer than 1,800 medicare beneficiaries who complete under the project the entire course of treatment under the Lifestyle Modification Program.

(2) The project shall be conducted over a course of 4 years.

(b) STUDY ON COST-EFFECTIVENESS.—

(1) STUDY.—The Secretary shall conduct a study on the cost-effectiveness of the Lifestyle Modification Program as conducted under the project. In determining whether such Program is cost-effective, the Secretary shall determine (using a control group under a matched paired experimental design) whether expenditures incurred for medicare beneficiaries enrolled under the project exceed expenditures for the control group of medicare beneficiaries with similar health conditions who are not enrolled under the project.

(2) REPORTS.—

(A) INITIAL REPORT.—Not later that 1 year after the date on which 900 medicare beneficiaries have completed the entire course of treatment under the Lifestyle Modification Program under the project, the Secretary shall submit to Congress an initial report on the study conducted under paragraph (1).

(B) FINAL REPORT.—Not later that 1 year after the date on which 1,800 medicare beneficiaries have completed the entire course of treatment under such Program under the project, the Secretary shall submit to Congress a final report on the study conducted under paragraph (1).

TITLE II—RURAL HEALTH CARE IMPROVEMENTS

Subtitle A—Critical Access Hospital Provisions

SEC. 201. CLARIFICATION OF NO BENEFICIARY COST-SHARING FOR CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED BY CRITICAL ACCESS HOSPITALS.

(a) PAYMENT CLARIFICATION.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended by adding at the end the following new paragraph:

"(4) NO BENEFICIARY COST-SHARING FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES.—No coinsurance, deductible, copayment, or other cost-sharing otherwise applicable under this part shall apply with respect to clinical diagnostic laboratory services furnished as an outpatient critical access hospital service. Nothing in this title shall be construed as providing for payment for clinical diagnostic laboratory services furnished as part of outpatient critical access hospital services, other than on the basis described in this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "or which are furnished on an outpatient basis by a critical access hospital".

(2) Section 403(d)(2) of BBRA (113 Stat. 1501A–371) is amended by striking "The amendment made by subsection (a) shall apply" and inserting "Paragraphs (1) through (3) of section 1834(g) of the Social Security Act (as amended by paragraph (1)) apply".

(c) EFFECTIVE DATES.—The amendment made—

(1) by subsection (a) shall apply to services furnished on or after the date of the enactment of BBRA;

(2) by subsection (b)(1) shall apply as if included in the enactment of section 403(e)(1) of BBRA (113 Stat. 1501A–371); and

(3) by subsection (b)(2) shall apply as if included in the enactment of section 403(d)(2) of BBRA (113 Stat. 1501A–371).

SEC. 202. ASSISTANCE WITH FEE SCHEDULE PAYMENT FOR PROFESSIONAL SERVICES UNDER ALL-INCLUSIVE RATE.

(a) IN GENERAL.—Section 1834(g)(2)(B) (42 U.S.C. 1395m(g)(2)(B)) is amended by inserting "115 percent of" before "such amounts".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to items and services furnished on or after July 1, 2001.

SEC. 203. EXEMPTION OF CRITICAL ACCESS HOSPITAL SWING BEDS FROM SNF PPS.

(a) IN GENERAL.—Section 1888(e)(7) (42 U.S.C. 1395yy(e)(7)) is amended—

(1) in the heading, by striking "TRANSITION FOR" and inserting "TREATMENT OF";

(2) in subparagraph (A), by striking "IN GENERAL.—The" and inserting "TRANSITION.—Subject to subparagraph (C), the";

(3) in subparagraph (A), by inserting "(other than critical access hospitals)" after "facilities described in subparagraph (B)";

(4) in subparagraph (B), by striking ", for which payment" and all that follows before the period; and

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

"(C) EXEMPTION FROM PPS OF SWING-BED SERVICES FURNISHED IN CRITICAL ACCESS HOSPITALS.—The prospective payment system established under this subsection shall not apply to services furnished by a critical access hospital pursuant to an agreement under section 1883.".

(b) PAYMENT ON A REASONABLE COST BASIS FOR SWING BED SERVICES FURNISHED BY CRITICAL ACCESS HOSPITALS.—Section 1883(a) (42 U.S.C. 1395tt(a)) is amended—

(1) in paragraph (2)(A), by inserting "(other than a critical access hospital)" after "any hospital"; and

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

"(3) Notwithstanding any other provision of this title, a critical access hospital shall be paid for covered skilled nursing facility services furnished under an agreement entered into under this section on the basis of the reasonable costs of such services (as determined under section 1861(v)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after the date of the enactment of this Act.

SEC. 204. PAYMENT IN CRITICAL ACCESS HOSPITALS FOR EMERGENCY ROOM ON-CALL PHYSICIANS.

(a) IN GENERAL.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 201(a), is further amended by adding at the end the following new paragraph:

"(5) COVERAGE OF COSTS FOR EMERGENCY ROOM ON-CALL PHYSICIANS.—In determining the reasonable costs of outpatient critical access hospital services under paragraphs (1) and (2)(A), the Secretary shall recognize as allowable costs, amounts (as defined by the Secretary) for reasonable compensation and related costs for emergency room physicians who are on-call (as defined by the Secretary) but who are not present on the premises of the critical access hospital involved, and are not otherwise furnishing physicians' services and are not on-call at any other provider or facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 2001.

SEC. 205. TREATMENT OF AMBULANCE SERVICES FURNISHED BY CERTAIN CRITICAL ACCESS HOSPITALS.

(a) IN GENERAL.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended by adding at the end the following new paragraph:

"(8) SERVICES FURNISHED BY CRITICAL ACCESS HOSPITALS.—Notwithstanding any other provision of this subsection, the Secretary shall pay the reasonable costs incurred in furnishing ambulance services if such services are furnished—

"(A) by a critical access hospital (as defined in section 1861(mm)(1)), or

"(B) by an entity that is owned and operated by a critical access hospital,

but only if the critical access hospital or entity is the only provider or supplier of ambulance services that is located within a 35-mile drive of such critical access hospital.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(1)(R) (42 U.S.C. 1395l(a)(1)(R)) is amended—

(1) by striking "ambulance service," and inserting "ambulance services, (i)"; and

(2) by inserting before the comma at the end the following: "and (ii) with respect to ambulance services described in section 1834(l)(8), the amounts paid shall be the amounts determined under section 1834(g) for outpatient critical access hospital services".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 206. GAO STUDY ON CERTAIN ELIGIBILITY REQUIREMENTS FOR CRITICAL ACCESS HOSPITALS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the eligibility requirements for critical access hospitals under section 1820(c) of the Social Security Act (42 U.S.C. 1395i–4(c)) with respect to limitations on average length of stay and number of beds in such a hospital, including an analysis of—

(1) the feasibility of having a distinct part unit as part of a critical access hospital for purposes of the medicare program under title XVIII of such Act; and

(2) the effect of seasonal variations in patient admissions on critical access hospital eligibility requirements with respect to limitations on average annual length of stay and number of beds.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) together with recommendations regarding—

(1) whether distinct part units should be permitted as part of a critical access hospital under the medicare program;

(2) if so permitted, the payment methodologies that should apply with respect to services provided by such units;

(3) whether, and to what extent, such units should be included in or excluded from the bed limits applicable to critical access hospitals under the medicare program; and

(4) any adjustments to such eligibility requirements to account for seasonal variations in patient admissions.

Subtitle B—Other Rural Hospitals Provisions

SEC. 211. TREATMENT OF RURAL DISPROPORTIONATE SHARE HOSPITALS.

(a) APPLICATION OF UNIFORM THRESHOLD.—Section 1886(d)(5)(F)(v) (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended—

(1) in subclause (II), by inserting "(or 15 percent, for discharges occurring on or after April 1, 2001)" after "30 percent";

(2) in subclause (III), by inserting "(or 15 percent, for discharges occurring on or after April 1, 2001)" after "40 percent"; and

(3) in subclause (IV), by inserting "(or 15 percent, for discharges occurring on or after April 1, 2001)" after "45 percent".

(b) ADJUSTMENT OF PAYMENT FORMULAS.—

(1) SOLE COMMUNITY HOSPITALS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (iv)(VI), by inserting after "10 percent" the following: "or, for discharges occurring on or after April 1, 2001, is equal to the percent determined in accordance with clause (x)"; and

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

"(x) For purposes of clause (iv)(VI) (relating to sole community hospitals), in the case of a hospital for a cost reporting period with a disproportionate patient percentage (as defined in clause (vi)) that—

"(I) is less than 19.3, the disproportionate share adjustment percentage is determined in accordance with the following formula: (P–15)(.65) + 2.5;

"(II) is equal to or exceeds 19.3, but is less than 30.0, such adjustment percentage is equal to 5.25 percent; or

"(III) is equal to or exceeds 30, such adjustment percentage is equal to 10 percent,

where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(2) RURAL REFERRAL CENTERS.—Such section is further amended—

(A) in clause (iv)(V), by inserting after "clause (viii)" the following: "or, for discharges occurring on or after April 1, 2001, is equal to the percent determined in accordance with clause (xi)"; and

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

"(xi) For purposes of clause (iv)(V) (relating to rural referral centers), in the case of a hospital for a cost reporting period with a disproportionate patient percentage (as defined in clause (vi)) that—

"(I) is less than 19.3, the disproportionate share adjustment percentage is determined in accordance with the following formula: (P–15)(.65) + 2.5;

"(II) is equal to or exceeds 19.3, but is less than 30.0, such adjustment percentage is equal to 5.25 percent; or

"(III) is equal to or exceeds 30, such adjustment percentage is determined in accordance with the following formula: (P–30)(.6) + 5.25,

where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(3) SMALL RURAL HOSPITALS GENERALLY.—Such section is further amended—

(A) in clause (iv)(III), by inserting after "4 percent" the following: "or, for discharges occurring on or after April 1, 2001, is equal to the percent determined in accordance with clause (xii)"; and

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

"(xii) For purposes of clause (iv)(III) (relating to small rural hospitals generally), in the case of a hospital for a cost reporting

period with a disproportionate patient percentage (as defined in clause (vi)) that—

"(I) is less than 19.3, the disproportionate share adjustment percentage is determined in accordance with the following formula: (P–15)(.65) + 2.5; or

"(II) is equal to or exceeds 19.3, such adjustment percentage is equal to 5.25 percent,

where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(4) HOSPITALS THAT ARE BOTH SOLE COMMUNITY HOSPITALS AND RURAL REFERRAL CENTERS.—Such section is further amended, in clause (iv)(IV), by inserting after "clause (viii)" the following: "or, for discharges occurring on or after April 1, 2001, the greater of the percentages determined under clause (x) or (xi)".

(5) URBAN HOSPITALS WITH LESS THAN 100 BEDS.—Such section is further amended—

(A) in clause (iv)(II), by inserting after "5 percent" the following: "or, for discharges occurring on or after April 1, 2001, is equal to the percent determined in accordance with clause (xiii)"; and

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

"(xiii) For purposes of clause (iv)(II) (relating to urban hospitals with less than 100 beds), in the case of a hospital for a cost reporting period with a disproportionate patient percentage (as defined in clause (vi)) that—

"(I) is less than 19.3, the disproportionate share adjustment percentage is determined in accordance with the following formula: (P–15)(.65) + 2.5; or

"(II) is equal to or exceeds 19.3, such adjustment percentage is equal to 5.25 percent,

where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

SEC. 212. OPTION TO BASE ELIGIBILITY FOR MEDICARE DEPENDENT, SMALL RURAL HOSPITAL PROGRAM ON DISCHARGES DURING TWO OF THE THREE MOST RECENTLY AUDITED COST REPORTING PERIODS.

(a) IN GENERAL.—Section 1886(d)(5)(G)(iv)(IV) (42 U.S.C. 1395ww(d)(5)(G)(iv)(IV)) is amended by inserting ", or two of the three most recently audited cost reporting periods for which the Secretary has a settled cost report," after "1987".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cost reporting periods beginning on or after April 1, 2001.

SEC. 213. EXTENSION OF OPTION TO USE REBASED TARGET AMOUNTS TO ALL SOLE COMMUNITY HOSPITALS.

(a) IN GENERAL.—Section 1886(b)(3)(I)(i) (42 U.S.C. 1395ww(b)(3)(I)(i)) is amended—

(1) in the matter preceding subclause (I), by striking "that for its cost reporting period beginning during 1999" and all that follows through "for such target amount" and inserting "there shall be substituted for the amount otherwise determined under subsection (d)(5)(D)(i), if such substitution results in a greater amount of payment under this section for the hospital";

(2) in subclause (I), by striking "target amount otherwise applicable" and all that follows through "target amount')" and inserting "the amount otherwise applicable to the hospital under subsection (d)(5)(D)(i) (referred to in this clause as the 'subsection (d)(5)(D)(i) amount')"; and

(3) in each of subclauses (II) and (III), by striking "subparagraph (C) target amount" and inserting "subsection (d)(5)(D)(i) amount".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 405 of BBRA (113 Stat. 1501A–372).

SEC. 214. MEDPAC ANALYSIS OF IMPACT OF VOLUME ON PER UNIT COST OF RURAL HOSPITALS WITH PSYCHIATRIC UNITS.

The Medicare Payment Advisory Commission, in its study conducted pursuant to subsection (a) of section 411 of BBRA (113 Stat. 1501A–377), shall include—

(1) in such study an analysis of the impact of volume on the per unit cost of rural hospitals with psychiatric units; and

(2) in its report under subsection (b) of such section a recommendation on whether special treatment for such hospitals may be warranted.

Subtitle C—Other Rural Provisions

SEC. 221. ASSISTANCE FOR PROVIDERS OF AMBULANCE SERVICES IN RURAL AREAS.

(a) TRANSITIONAL ASSISTANCE IN CERTAIN MILEAGE RATES.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended by adding at the end the following new paragraph:

"(8) TRANSITIONAL ASSISTANCE FOR RURAL PROVIDERS.—In the case of ground ambulance services furnished on or after July 1, 2001, and before January 1, 2004, for which the transportation originates in a rural area (as defined in section 1886(d)(2)(D)) or in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)), the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 17 miles, and up to 50 miles, the rate otherwise established shall be increased by not less than ½ of the additional payment per mile established for the first 17 miles of such a trip originating in a rural area.".

(b) GAO STUDIES ON THE COSTS OF AMBULANCE SERVICES FURNISHED IN RURAL AREAS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on each of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are the following:

(A) The cost of efficiently providing ambulance services for trips originating in rural areas, with special emphasis on collection of cost data from rural providers.

(B) The means by which rural areas with low population densities can be identified for the purpose of designating areas in which the cost of providing ambulance services would be expected to be higher than similar services provided in more heavily populated areas because of low usage. Such study shall also include an analysis of the additional costs of providing ambulance services in areas designated under the previous sentence.

(3) REPORT.—Not later than June 30, 2002, the Comptroller General shall submit to Congress a report on the results of the studies conducted under paragraph (1) and shall include recommendations on steps that should be taken to assure access to ambulance services in rural areas.

(c) ADJUSTMENT IN RURAL RATES.—In providing for adjustments under subparagraph (D) of section 1834(l)(2) of the Social Security Act (42 U.S.C. 1395m(l)(2)) for years beginning with 2004, the Secretary of Health and Human Services shall take into consideration the recommendations contained in the report under subsection (b)(2) and shall adjust the fee schedule payment rates under such section for ambulance services provided in low density rural areas based on the increased cost (if any) of providing such services in such areas.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after July 1, 2001. In applying such amendment to services furnished on or after such date and before January 1, 2002, the amount of the rate increase provided under such amendment shall be equal to $1.25 per mile.

SEC. 222. PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.

(a) PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended—

(1) by striking "for such services provided before January 1, 2003,"; and

(2) by striking the semicolon at the end and inserting a comma.

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

SEC. 223. REVISION OF MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) TIME LIMIT FOR BBA PROVISION.—Section 4206(a) of BBA (42 U.S.C. 1395l note) is amended by striking "Not later than January 1, 1999" and inserting "For services furnished on and after January 1, 1999, and before October 1, 2001".

(b) EXPANSION OF MEDICARE PAYMENT FOR TELEHEALTH SERVICES.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(m) PAYMENT FOR TELEHEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary shall pay for telehealth services that are furnished via a telecommunications system by a physician (as defined in section 1861(r)) or a practitioner (described in section 1842(b)(18)(C)) to an eligible telehealth individual enrolled under this part notwithstanding that the individual physician or practitioner providing the telehealth service is not at the same location as the beneficiary. For purposes of the preceding sentence, in the case of any Federal telemedicine demonstration program conducted in Alaska or Hawaii, the term 'telecommunications system' includes store-

and-forward technologies that provide for the asynchronous transmission of health care information in single or multimedia formats.

"(2) PAYMENT AMOUNT.—

"(A) DISTANT SITE.—The Secretary shall pay to a physician or practitioner located at a distant site that furnishes a telehealth service to an eligible telehealth individual an amount equal to the amount that such physician or practitioner would have been paid under this title had such service been furnished without the use of a telecommunications system.

"(B) FACILITY FEE FOR ORIGINATING SITE.—With respect to a telehealth service, subject to section 1833(a)(1)(U), there shall be paid to the originating site a facility fee equal to—

"(i) for the period beginning on October 1, 2001, and ending on December 31, 2001, and for 2002, $20; and

"(ii) for a subsequent year, the facility fee specified in clause (i) or this clause for the preceding year increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for such subsequent year.

"(C) TELEPRESENTER NOT REQUIRED.—Nothing in this subsection shall be construed as requiring an eligible telehealth individual to be presented by a physician or practitioner at the originating site for the furnishing of a service via a telecommunications system, unless it is medically necessary (as determined by the physician or practitioner at the distant site).

"(3) LIMITATION ON BENEFICIARY CHARGES.—

"(A) PHYSICIAN AND PRACTITIONER.—The provisions of section 1848(g) and subparagraphs (A) and (B) of section 1842(b)(18) shall apply to a physician or practitioner receiving payment under this subsection in the same manner as they apply to physicians or practitioners under such sections.

"(B) ORIGINATING SITE.—The provisions of section 1842(b)(18) shall apply to originating sites receiving a facility fee in the same manner as they apply to practitioners under such section.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) DISTANT SITE.—The term 'distant site' means the site at which the physician or practitioner is located at the time the service is provided via a telecommunications system.

"(B) ELIGIBLE TELEHEALTH INDIVIDUAL.—The term 'eligible telehealth individual' means an individual enrolled under this part who receives a telehealth service furnished at an originating site.

"(C) ORIGINATING SITE.—

"(i) IN GENERAL.—The term 'originating site' means only those sites described in clause (ii) at which the eligible telehealth individual is located at the time the service is furnished via a telecommunications system and only if such site is located—

"(I) in an area that is designated as a rural health professional shortage area under section

332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A));

"(II) in a county that is not included in a Metropolitan Statistical Area; or

"(III) from an entity that participates in a Federal telemedicine demonstration project that has been approved by (or receives funding from) the Secretary of Health and Human Services as of December 31, 2000.

"(ii) SITES DESCRIBED.—The sites referred to in clause (i) are the following sites:

"(I) The office of a physician or practitioner.

"(II) A critical access hospital (as defined in section 1861(mm)(1)).

"(III) A rural health clinic (as defined in section 1861(aa)(s)).

"(IV) A Federally qualified health center (as defined in section 1861(aa)(4)).

"(V) A hospital (as defined in section 1861(e)).

"(D) PHYSICIAN.—The term 'physician' has the meaning given that term in section 1861(r).

"(E) PRACTITIONER.—The term 'practitioner' has the meaning given that term in section 1842(b)(18)(C).

"(F) TELEHEALTH SERVICE.—

"(i) IN GENERAL.—The term 'telehealth service' means professional consultations, office visits, and office psychiatry services (identified as of July 1, 2000, by HCPCS codes 99241–99275, 99201–99215, 90804–90809, and 90862 (and as subsequently modified by the Secretary)), and any additional service specified by the Secretary.

"(ii) YEARLY UPDATE.—The Secretary shall establish a process that provides, on an annual basis, for the addition or deletion of services (and HCPCS codes), as appropriate, to those specified in clause (i) for authorized payment under paragraph (1).".

(c) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(1)), as amended by section 105(c), is further amended—

(1) by striking "and (T)" and inserting "(T)"; and

(2) by inserting before the semicolon at the end the following: ", and (U) with respect to facility fees described in section 1834(m)(2)(B), the amounts paid shall be 80 percent of the lesser of the actual charge or the amounts specified in such section".

(d) STUDY AND REPORT ON ADDITIONAL COVERAGE.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study to identify—

(A) settings and sites for the provision of telehealth services that are in addition to those permitted under section 1834(m) of the Social Security Act, as added by subsection (b);

(B) practitioners that may be reimbursed under such section for furnishing telehealth services that are in addition to the practitioners that may be reimbursed for such services under such section; and

(C) geographic areas in which telehealth services may be reimbursed that are in addition to the geographic areas where such services may be reimbursed under such section.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1) together with such recommendations for legislation that the Secretary determines are appropriate.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall be effective for services furnished on or after October 1, 2001.

SEC. 224. EXPANDING ACCESS TO RURAL HEALTH CLINICS.

(a) IN GENERAL.—The matter in section 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking "rural hospitals" and inserting "hospitals".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after July 1, 2001.

SEC. 225. MEDPAC STUDY ON LOW-VOLUME, ISOLATED RURAL HEALTH CARE PROVIDERS.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on the effect of low patient and procedure volume on the financial status of low-volume, isolated rural health care providers participating in the medicare program under title XVIII of the Social Security Act.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a) indicating—

(1) whether low-volume, isolated rural health care providers are having, or may have, significantly decreased medicare margins or other financial difficulties resulting from any of the payment methodologies described in subsection (c);

(2) whether the status as a low-volume, isolated rural health care provider should be designated under the medicare program and any criteria that should be used to qualify for such a status; and

(3) any changes in the payment methodologies described in subsection (c) that are necessary to provide appropriate reimbursement under the medicare program to low-volume, isolated rural health care providers (as designated pursuant to paragraph (2)).

(c) PAYMENT METHODOLOGIES DESCRIBED.—The payment methodologies described in this subsection are the following:

(1) The prospective payment system for hospital outpatient department services under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

(2) The fee schedule for ambulance services under section 1834(l) of such Act (42 U.S.C. 1395m(l)).

(3) The prospective payment system for inpatient hospital services under section 1886 of such Act (42 U.S.C. 1395ww).

(4) The prospective payment system for routine service costs of skilled nursing facilities under section 1888(e) of such Act (42 U.S.C. 1395yy(e)).

(5) The prospective payment system for home health services under section 1895 of such Act (42 U.S.C. 1395fff).

TITLE III—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 301. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATE FOR 2001.

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XVI), by striking "minus 1.1 percentage points for hospitals (other than sole community hospitals) in all areas, and the market basket percentage increase for sole community hospitals," and inserting "for hospitals in all areas,";

(2) in subclause (XVII)—

(A) by striking "minus 1.1 percentage points" and inserting "minus 0.55 percentage points; and

(B) by striking "and" at the end;

(3) by redesignating subclause (XVIII) as subclause (XIX);

(4) in subclause (XIX), as so redesignated, by striking "fiscal year 2003" and inserting "fiscal year 2004"; and

(5) by inserting after subclause (XVII) the following new subclause:

"(XVIII) for fiscal year 2003, the market basket percentage increase minus 0.55 percentage points for hospitals in all areas, and".

(b) SPECIAL RULE FOR PAYMENT FOR FISCAL YEAR 2001.—Notwithstanding the amendment made by subsection (a), for purposes of making payments for fiscal year 2001 for inpatient hospital services furnished by subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)), the "applicable percentage increase" referred to in section 1886(b)(3)(B)(i) of such Act (42 U.S.C. 1395ww(b)(3)(B)(i))—

(1) for discharges occurring on or after October 1, 2000, and before April 1, 2001, shall be determined in accordance with subclause (XVI) of such section as in effect on the day before the date of the enactment of this Act; and

(2) for discharges occurring on or after April 1, 2001, and before October 1, 2001, shall be equal to—

(A) the market basket percentage increase plus 1.1 percentage points for hospitals (other than sole community hospitals) in all areas; and

(B) the market basket percentage increase for sole community hospitals.

(c) CONSIDERATION OF PRICE OF BLOOD AND BLOOD PRODUCTS IN MARKET BASKET INDEX.—The Secretary of Health and Human Services shall, when next (after the date of the enactment of this Act) rebasing and revising the hospital market basket index (as defined in section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii))), consider the prices of blood and blood products purchased by hospitals and determine whether those prices are adequately reflected in such index.

(d) MEDPAC STUDY AND REPORT REGARDING CERTAIN HOSPITAL COSTS.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on—

(A) any increased costs incurred by subsection (d) hospitals (as defined in paragraph (1)(B) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d))) in providing inpatient hospital services to medicare beneficiaries under title XVIII of such Act during the period beginning on October 1, 1983, and ending on September 30, 1999, that were attributable to—

(i) complying with new blood safety measure requirements; and

(ii) providing such services using new technologies;

(B) the extent to which the prospective payment system for such services under such section provides adequate and timely recognition of such increased costs;

(C) the prospects for (and to the extent practicable, the magnitude of) cost increases that hospitals will incur in providing such services that are attributable to complying with new blood safety measure requirements and providing such services using new technologies during the 10 years after the date of the enactment of this Act; and

(D) the feasibility and advisability of establishing mechanisms under such payment system to provide for more timely and accurate recognition of such cost increases in the future.

(2) CONSULTATION.—In conducting the study under this subsection, the Commission shall consult with representatives of the blood community, including—

(A) hospitals;

(B) organizations involved in the collection, processing, and delivery of blood; and

(C) organizations involved in the development of new blood safety technologies.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1) together with such recommendations for legislation and administrative action as the Commission determines appropriate.

(e) ADJUSTMENT FOR INPATIENT CASE MIX CHANGES.—

(1) IN GENERAL.—Section 1886(d)(3)(A) (42 U.S.C. 1395ww(d)(3)(A)) is amended by adding at the end the following new clause:

"(vi) Insofar as the Secretary determines that the adjustments under paragraph (4)(C)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of discharges that do not reflect real changes in case mix, the Secretary may adjust the average standardized amounts computed under this paragraph for subsequent fiscal years so as to eliminate the effect of such coding or classification changes.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 2001.

SEC. 302. ADDITIONAL MODIFICATION IN TRANSITION FOR INDIRECT MEDICAL EDUCATION (IME) PERCENTAGE ADJUSTMENT.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (V) by striking "and" at the end;

(2) by redesignating subclause (VI) as subclause (VII);

(3) in subclause (VII) as so redesignated, by striking "2001" and inserting "2002"; and

(4) by inserting after subclause (V) the following new subclause:

"(VI) during fiscal year 2002, 'c' is equal to 1.6; and".

(b) SPECIAL RULE FOR PAYMENT FOR FISCAL YEAR 2001.—Notwithstanding paragraph (5)(B)(ii)(V) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)(V)), for purposes of making payments for subsection (d) hospitals (as defined in paragraph (1)(B) of such section) with indirect costs of medical education, the indirect teaching adjustment factor referred to in paragraph (5)(B)(ii) of such section shall be determined, for discharges occurring on or after April 1, 2001, and before October 1, 2001, as if "c" in paragraph (5)(B)(ii)(V) of such section equalled 1.66 rather than 1.54.

(c) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by inserting "or of section 302 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000" after "Balanced Budget Refinement Act of 1999".

(d) CLERICAL AMENDMENTS.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)), as amended by subsection (a), is further amended by moving the indentation of each of the following 2 ems to the left:

(1) Clauses (ii), (v), and (vi).

(2) Subclauses (I) (II), (III), (IV), (V), and (VII) of clause (ii).

(3) Subclauses (I) and (II) of clause (vi) and the flush sentence at the end of such clause.

SEC. 303. DECREASE IN REDUCTIONS FOR DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F)(ix) (42 U.S.C. 1395ww(d)(5)(F)(ix)) is amended—

(1) in subclause (III), by striking "each of" and by inserting "and 2 percent, respectively" after "3 percent"; and

(2) in subclause (IV), by striking "4 percent" and inserting "3 percent".

(b) SPECIAL RULE FOR PAYMENT FOR FISCAL YEAR 2001.—Notwithstanding the amendment made by subsection (a)(1), for purposes of making disproportionate share payments for subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) for fiscal year 2001, the additional payment amount otherwise determined under clause (ii) of section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F))—

(1) for discharges occurring on or after October 1, 2000, and before April 1, 2001, shall be adjusted as provided by clause (ix)(III) of such section as in effect on the day before the date of the enactment of this Act; and

(2) for discharges occurring on or after April 1, 2001, and before October 1, 2001, shall, instead of being reduced by 3 percent as provided by clause (ix)(III) of such section as in effect after the date of the enactment of this Act, be reduced by 1 percent.

(c) CONFORMING AMENDMENTS RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), is amended—

(1) by striking "1989 or" and inserting "1989,"; and

(2) by inserting ", or the enactment of section 303 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000" after "Omnibus Budget Reconciliation Act of 1990".

(d) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) is amended by striking "and before October 1, 1997,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) is effective as if included in the enactment of BBA.

(e) REFERENCE TO CHANGES IN DSH FOR RURAL HOSPITALS.—For additional changes in the DSH program for rural hospitals, see section 211.

SEC. 304. WAGE INDEX IMPROVEMENTS.

(a) DURATION OF WAGE INDEX RECLASSIFICATION; USE OF 3-YEAR WAGE DATA.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended by adding at the end the following new clauses:

"(v) Any decision of the Board to reclassify a subsection (d) hospital for purposes of the adjustment factor described in subparagraph (C)(i)(II) for fiscal year 2001 or any fiscal year thereafter shall be effective for a period of 3 fiscal years, except that the Secretary shall establish procedures under which a subsection (d) hospital may elect to terminate such reclassification before the end of such period.

"(vi) Such guidelines shall provide that, in making decisions on applications for reclassification for the purposes described in clause (v) for fiscal year 2003 and any succeeding fiscal year, the Board shall base any comparison of the average hourly wage for the hospital with the average hourly wage for hospitals in an area on—

"(I) an average of the average hourly wage amount for the hospital from the most recently published hospital wage survey data of the Secretary (as of the date on which the hospital applies for reclassification) and such amount from each of the two immediately preceding surveys; and

"(II) an average of the average hourly wage amount for hospitals in such area from the most recently published hospital wage survey data of the Secretary (as of the date on which the hospital applies for reclassification) and such amount from each of the two immediately preceding surveys.".

(b) PROCESS TO PERMIT STATEWIDE WAGE INDEX CALCULATION AND APPLICATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a process (based on the voluntary process utilized by the Secretary of Health and Human Services under section 1848 of the Social Security Act (42 U.S.C. 1395w–

4) for purposes of computing and applying a statewide geographic adjustment factor) under which an appropriate statewide entity may apply to have all the geographic areas in a State treated as a single geographic area for purposes of computing and applying the area wage index under section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)). Such process shall be established by October 1, 2001, for reclassifications beginning in fiscal year 2003.

(2) PROHIBITION ON INDIVIDUAL HOSPITAL RECLASSIFICATION.—Notwithstanding any other provision of law, if the Secretary applies a statewide geographic wage index under paragraph (1) with respect to a State, any application submitted by a hospital in that State under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)) for geographic reclassification shall not be considered.

(c) COLLECTION OF INFORMATION ON OCCUPATIONAL MIX.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for the collection of data every 3 years on occupational mix for employees of each subsection (d) hospital (as defined in section 1886(d)(1)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(D))) in the provision of inpatient hospital services, in order to construct an occupational mix adjustment in the hospital area wage index applied under section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)).

(2) APPLICATION.—The third sentence of section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended by striking "To the extent determined feasible by the Secretary, such survey shall measure" and inserting "Not less often than once every 3 years the Secretary (through such survey or otherwise) shall measure".

(3) EFFECTIVE DATE.—By not later than September 30, 2003, for application beginning October 1, 2004, the Secretary shall first complete—

(A) the collection of data under paragraph (1); and

(B) the measurement under the third sentence of section 1886(d)(3)(E), as amended by paragraph (2).

SEC. 305. PAYMENT FOR INPATIENT SERVICES OF REHABILITATION HOSPITALS.

(a) ASSISTANCE WITH ADMINISTRATIVE COSTS ASSOCIATED WITH COMPLETION OF PATIENT ASSESSMENT.—Section 1886(j)(3)(B) (42 U.S.C. 1395ww(j)(3)(B)) is amended by striking "98 percent" and inserting "98 percent for fiscal year 2001 and 100 percent for fiscal year 2002".

(b) ELECTION TO APPLY FULL PROSPECTIVE PAYMENT RATE WITHOUT PHASE-IN.—

(1) IN GENERAL.—Paragraph (1) of section 1886(j) (42 U.S.C. 1395ww(j)) is amended—

(A) in subparagraph (A), by inserting "other than a facility making an election under subparagraph (F)" before "in a cost reporting period";

(B) in subparagraph (B), by inserting "or, in the case of a facility making an election under subparagraph (F), for any cost reporting period described in such subparagraph," after "2002,"; and

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

"(F) ELECTION TO APPLY FULL PROSPECTIVE PAYMENT SYSTEM.—A rehabilitation facility may elect, not later than 30 days before its first cost reporting period for which the payment methodology under this subsection applies to the facility, to have payment made to the facility under this subsection under the provisions of subparagraph (B) (rather than subparagraph (A)) for each cost reporting period to which such payment methodology applies.".

(2) CLARIFICATION.—Paragraph (3)(B) of such section is amended by inserting "but not taking into account any payment adjustment resulting from an election permitted under paragraph (1)(F)" after "paragraphs (4) and (6)".

(c) EFFECTIVE DATE.—The amendments made by this section take effect as if included in the enactment of BBA.

SEC. 306. PAYMENT FOR INPATIENT SERVICES OF PSYCHIATRIC HOSPITALS.

With respect to hospitals described in clause (i) of section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) and psychiatric units described in the matter following clause (v) of such section, in making incentive payments to such hospitals under section 1886(b)(1)(A) of such Act (42 U.S.C. 1395ww(b)(1)(A)) for cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, the Secretary of Health and Human Services, in clause (ii) of such section, shall substitute "3 percent" for "2 percent".

SEC. 307. PAYMENT FOR INPATIENT SERVICES OF LONG-TERM CARE HOSPITALS.

(a) INCREASED TARGET AMOUNTS AND CAPS FOR LONG-TERM CARE HOSPITALS BEFORE IMPLEMENTATION OF THE PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(A) in subparagraph (H)(ii)(III), by inserting "subject to subparagraph (J)," after "2002,"; and

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

"(J) For cost reporting periods beginning during fiscal year 2001, for a hospital described in subsection (d)(1)(B)(iv)—

"(i) the limiting or cap amount otherwise determined under subparagraph (H) shall be increased by 2 percent; and

"(ii) the target amount otherwise determined under subparagraph (A) shall be increased by 25 percent (subject to the limiting or cap amount determined under subparagraph (H), as increased by clause (i)).".

(2) APPLICATION.—The amendments made by subsection (a) and by section 122 of BBRA (113 Stat. 1501A–331) shall not be taken into account in the development and implementation of the prospective payment system under section 123 of BBRA (113 Stat. 1501A–331).

(b) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM FOR LONG-TERM CARE HOSPITALS.—

(1) MODIFICATION OF REQUIREMENT.—In developing the prospective payment system for payment for inpatient hospital services provided in long-term care hospitals described in section 1886(d)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iv)) under the medicare program under title

XVIII of such Act required under section 123 of BBRA, the Secretary of Health and Human Services shall examine the feasibility and the impact of basing payment under such a system on the use of existing (or refined) hospital diagnosis-related groups (DRGs) that have been modified to account for different resource use of long-term care hospital patients as well as the use of the most recently available hospital discharge data. The Secretary shall examine and may provide for appropriate adjustments to the long-term hospital payment system, including adjustments to DRG weights, area wage adjustments, geographic reclassification, outliers, updates, and a disproportionate share adjustment consistent with section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)).

(2) DEFAULT IMPLEMENTATION OF SYSTEM BASED ON EXISTING DRG METHODOLOGY.—If the Secretary is unable to implement the prospective payment system under section 123 of the BBRA by October 1, 2002, the Secretary shall implement a prospective payment system for such hospitals that bases payment under such a system using existing hospital diagnosis-related groups (DRGs), modified where feasible to account for resource use of long-term care hospital patients using the most recently available hospital discharge data for such services furnished on or after that date.

Subtitle B—Adjustments to PPS Payments for Skilled Nursing Facilities

SEC. 311. ELIMINATION OF REDUCTION IN SKILLED NURSING FACILITY (SNF) MARKET BASKET UPDATE IN 2001.

(a) IN GENERAL.—Section 1888(e)(4)(E)(ii) (42 U.S.C. 1395yy(e)(4)(E)(ii)) is amended—

(1) by redesignating subclauses (II) and (III) as subclauses (III) and (IV), respectively;

(2) in subclause (III), as so redesignated—

(A) by striking "each of fiscal years 2001 and 2002" and inserting "each of fiscal years 2002 and 2003"; and

(B) by striking "minus 1 percentage point" and inserting "minus 0.5 percentage points"; and

(3) by inserting after subclause (I) the following new subclause:

> "(II) for fiscal year 2001, the rate computed for the previous fiscal year increased by the skilled nursing facility market basket percentage change for the fiscal year;".

(b) SPECIAL RULE FOR PAYMENT FOR FISCAL YEAR 2001.—Notwithstanding the amendments made by subsection (a), for purposes of making payments for covered skilled nursing facility services under section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) for fiscal year 2001, the Federal per diem rate referred to in paragraph (4)(E)(ii) of such section—

(1) for the period beginning on October 1, 2000, and ending on March 31, 2001, shall be the rate determined in accordance with the law as in effect on the day before the date of the enactment of this Act; and

(2) for the period beginning on April 1, 2001, and ending on September 30, 2001, shall be the rate that would have been determined under such section if "plus 1 percentage point" had been substituted for "minus 1 percentage point" under subclause (II) of such paragraph (as in effect on the day before the date of the enactment of this Act).

(c) RELATION TO TEMPORARY INCREASE IN BBRA.—The increases provided under section 101 of BBRA (113 Stat. 1501A–325) shall be in addition to any increase resulting from the amendments made by subsection (a).

(d) GAO REPORT ON ADEQUACY OF SNF PAYMENT RATES.—Not later than July 1, 2002, the Comptroller General of the United States shall submit to Congress a report on the adequacy of medicare payment rates to skilled nursing facilities and the extent to which medicare contributes to the financial viability of such facilities. Such report shall take into account the role of private payors, medicaid, and case mix on the financial performance of these facilities, and shall include an analysis (by specific RUG classification) of the number and characteristics of such facilities.

(e) HCFA STUDY OF CLASSIFICATION SYSTEMS FOR SNF RESIDENTS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the different systems for categorizing patients in medicare skilled nursing facilities in a manner that accounts for the relative resource utilization of different patient types.

(2) REPORT.—Not later than January 1, 2005, the Secretary shall submit to Congress a report on the study conducted under subsection (a). Such report shall include such recommendations regarding changes in law as may be appropriate.

SEC. 312. INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall increase by 16.66 percent the nursing component of the case-mix adjusted Federal prospective payment rate specified in Tables 3 and 4 of the final rule published in the Federal Register by the Health Care Financing Administration on July 31, 2000 (65 Fed. Reg. 46770) and as subsequently updated, effective for services furnished on or after April 1, 2001, and before October 1, 2002.

(b) GAO AUDIT OF NURSING STAFF RATIOS.—

(1) AUDIT.—The Comptroller General of the United States shall conduct an audit of nursing staffing ratios in a representative sample of medicare skilled nursing facilities. Such sample shall cover selected States and shall include broad representation with respect to size, ownership, location, and medicare volume. Such audit shall include an examination of payroll records and medicaid cost reports of individual facilities.

(2) REPORT.—Not later than August 1, 2002, the Comptroller General shall submit to Congress a report on the audits conducted under paragraph (1). Such report shall include an assessment of the impact of the increased payments under this subtitle on increased nursing staff ratios and shall make recommendations as to whether increased payments under subsection (a) should be continued.

SEC. 313. APPLICATION OF SNF CONSOLIDATED BILLING REQUIREMENT LIMITED TO PART A COVERED STAYS.

(a) IN GENERAL.—Section 1862(a)(18) (42 U.S.C. 1395y(a)(18)) is amended by striking "or of a part of a facility that includes a skilled nursing facility (as determined under regulations)," and inserting "during a period in which the resident is provided covered post-hospital extended care services (or, for services described in section 1861(s)(2)(D), which are furnished to such an individual without regard to such period),".

(b) CONFORMING AMENDMENTS.—(1) Section 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E)) is amended—

(A) by inserting "by, or under arrangements made by, a skilled nursing facility" after "furnished";

(B) by striking "or of a part of a facility that includes a skilled nursing facility (as determined under regulations)"; and

(C) by striking "(without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise)".

(2) Section 1842(t) (42 U.S.C. 1395u(t)) is amended by striking "by a physician" and "or of a part of a facility that includes a skilled nursing facility (as determined under regulations),".

(3) Section 1866(a)(1)(H)(ii)(I) (42 U.S.C. 1395cc(a)(1)(H)(ii)(I)) is amended by inserting after "who is a resident of the skilled nursing facility" the following: "during a period in which the resident is provided covered post-hospital extended care services (or, for services described in section 1861(s)(2)(D), that are furnished to such an individual without regard to such period)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to services furnished on or after January 1, 2001.

(d) OVERSIGHT.—The Secretary of Health and Human Services, through the Office of the Inspector General in the Department of Health and Human Services or otherwise, shall monitor payments made under part B of the title XVIII of the Social Security Act for items and services furnished to residents of skilled nursing facilities during a time in which the residents are not being provided medicare covered post-hospital extended care services to ensure that there is not duplicate billing for services or excessive services provided.

SEC. 314. ADJUSTMENT OF REHABILITATION RUGS TO CORRECT ANOMALY IN PAYMENT RATES.

(a) ADJUSTMENT FOR REHABILITATION RUGS.—

(1) IN GENERAL.—For purposes of computing payments for covered skilled nursing facility services under paragraph (1) of section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) for such services furnished on or after April 1, 2001, and before the date described in section 101(c)(2) of BBRA (113 Stat. 1501A–324), the Secretary of Health and Human Services shall increase by 6.7 percent the adjusted Federal per diem rate otherwise determined under paragraph (4) of such section (but for this section) for covered skilled nursing facility services for RUG–III rehabilitation groups described in paragraph (2) furnished to an individual during the period

in which such individual is classified in such a RUG–III category.

(2) REHABILITATION GROUPS DESCRIBED.—The RUG–III rehabilitation groups for which the adjustment described in paragraph (1) applies are RUC, RUB, RUA, RVC, RVB, RVA, RHC, RHB, RHA, RMC, RMB, RMA, RLB, and RLA, as specified in Tables 3 and 4 of the final rule published in the Federal Register by the Health Care Financing Administration on July 31, 2000 (65 Fed. Reg. 46770).

(b) CORRECTION WITH RESPECT TO REHABILITATION RUGS.—

(1) IN GENERAL.—Section 101(b) of BBRA (113 Stat. 1501A–324) is amended by striking "CA1, RHC, RMC, and RMB" and inserting "and CA1".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after April 1, 2001.

(c) REVIEW BY OFFICE OF INSPECTOR GENERAL.—The Inspector General of the Department of Health and Human Services shall review the medicare payment structure for services classified within rehabilitation resource utilization groups (RUGs) (as in effect after the date of the enactment of the BBRA) to assess whether payment incentives exist for the delivery of inadequate care. Not later than October 1, 2001, the Inspector General shall submit to Congress a report on such review.

SEC. 315. ESTABLISHMENT OF PROCESS FOR GEOGRAPHIC RECLASSIFICATION.

(a) IN GENERAL.—The Secretary of Health and Human Services may establish a procedure for the geographic reclassification of a skilled nursing facility for purposes of payment for covered skilled nursing facility services under the prospective payment system established under section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)). Such procedure may be based upon the method for geographic reclassifications for inpatient hospitals established under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(b) REQUIREMENT FOR SKILLED NURSING FACILITY WAGE DATA.—In no case may the Secretary implement the procedure under subsection (a) before such time as the Secretary has collected data necessary to establish an area wage index for skilled nursing facilities based on wage data from such facilities.

Subtitle C—Hospice Care

SEC. 321. FIVE PERCENT INCREASE IN PAYMENT BASE.

(a) IN GENERAL.—Section 1814(i)(1)(C)(ii)(VI) (42 U.S.C. 1395f(i)(1)(C)(ii)(VI)) is amended by inserting ", plus, in the case of fiscal year 2001, 5.0 percentage points" before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospice care furnished on or after April 1, 2001. In applying clause (ii) of section 1814(i)(1)(C) of the Social Security Act (42 U.S.C. 1395f(i)(1)(C)) beginning with fiscal year 2002, the payment rates in effect under such section during the period beginning on April 1, 2001, and ending on September 30, shall be treated as the payment rates in effect during fiscal year 2001.

(c) NO EFFECT ON BBRA TEMPORARY INCREASE.—The provisions of this section shall have no effect on the application of section 131 of BBRA.

(d) APPLICATION OF WAGE INDEX.—Notwithstanding section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)), the Secretary of Health and Human Services shall use 1.0043 as the hospice wage index value for the Wichita, Kansas Metropolitan Statistical Area in calculating payments under such section for a hospice program providing hospice care in such area during fiscal year 2000. The Secretary may provide for an appropriate timely lump sum payment to reflect the application of the previous sentence.

(e) TECHNICAL AMENDMENT.—Section 1814(a)(7)(A)(ii) (42 U.S.C. 1395f(a)(7)(A)(ii)) is amended by striking the period at the end and inserting a semicolon.

SEC. 322. CLARIFICATION OF PHYSICIAN CERTIFICATION.

(a) CERTIFICATION BASED ON NORMAL COURSE OF ILLNESS.—

(1) IN GENERAL.—Section 1814(a) (42 U.S.C. 1395f(a)) is amended by adding at the end the following new sentence: "The certification regarding terminal illness of an individual under paragraph (7) shall be based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to certifications made on or after the date of the enactment of this Act.

(b) STUDY AND REPORT ON PHYSICIAN CERTIFICATION REQUIREMENT FOR HOSPICE BENEFITS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study to examine the appropriateness of the certification regarding terminal illness of an individual under section 1814(a)(7) of the Social Security Act (42 U.S.C. 1395f(a)(7)) that is required in order for such individual to receive hospice benefits under the medicare program under title XVIII of such Act. In conducting such study, the Secretary shall take into account the effect of the amendment made by subsection (a).

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under paragraph (1), together with any recommendations for legislation that the Secretary deems appropriate.

SEC. 323. MEDPAC REPORT ON ACCESS TO, AND USE OF, HOSPICE BENEFIT.

(a) IN GENERAL.—The Medicare Payment Advisory Commission shall conduct a study to examine the factors affecting the use of hospice benefits under the medicare program under title XVIII of the Social Security Act, including a delay in the time (relative to death) of entry into a hospice program, and differences in such use between urban and rural hospice programs and based upon the presenting condition of the patient.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a), together with any recommendations for legislation that the Commission deems appropriate.

Subtitle D—Other Provisions

SEC. 331. RELIEF FROM MEDICARE PART A LATE ENROLLMENT PENALTY FOR GROUP BUY-IN FOR STATE AND LOCAL RETIREES.

(a) IN GENERAL.—Section 1818 (42 U.S.C. 1395i–2) is amended—

(1) in subsection (c)(6), by inserting before the semicolon at the end the following: "and shall be subject to reduction in accordance with subsection (d)(6)"; and

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

"(6)(A) In the case where a State, a political subdivision of a State, or an agency or instrumentality of a State or political subdivision thereof determines to pay, for the life of each individual, the monthly premiums due under paragraph (1) on behalf of each of the individuals in a qualified State or local government retiree group who meets the conditions of subsection (a), the amount of any increase otherwise applicable under section 1839(b) (as applied and modified by subsection (c)(6) of this section) with respect to the monthly premium for benefits under this part for an individual who is a member of such group shall be reduced by the total amount of taxes paid under section 3101(b) of the Internal Revenue Code of 1986 by such individual and under section 3111(b) by the employers of such individual on behalf of such individual with respect to employment (as defined in section 3121(b) of such Code).

"(B) For purposes of this paragraph, the term 'qualified State or local government retiree group' means all of the individuals who retire prior to a specified date that is before January 1, 2002, from employment in one or more occupations or other broad classes of employees of—

"(i) the State;

"(ii) a political subdivision of the State; or

"(iii) an agency or instrumentality of the State or political subdivision of the State.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to premiums for months beginning with January 1, 2002.

TITLE IV—PROVISIONS RELATING TO PART B

Subtitle A—Hospital Outpatient Services

SEC. 401. REVISION OF HOSPITAL OUTPATIENT PPS PAYMENT UPDATE.

(a) IN GENERAL.—Section 1833(t)(3)(C)(iii) (42 U.S.C. 1395l(t)(3)(C)(iii)) is amended by striking "in each of 2000, 2001, and 2002" and inserting "in each of 2000 and 2002".

(b) ADJUSTMENT FOR CASE MIX CHANGES.—

(1) IN GENERAL.—Section 1833(t)(3)(C) (42 U.S.C. 1395l(t)(3)(C)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) ADJUSTMENT FOR SERVICE MIX CHANGES.—Insofar as the Secretary determines that the adjustments for service mix under paragraph (2) for a previous year (or estimates that such adjustments for a future year) did (or are likely to) result in a change in aggregate payments under this subsection during the year that are a result of changes in the coding or classification of covered OPD services that do not reflect real changes in service mix, the Secretary may adjust the conversion factor computed under this subparagraph for subsequent years so as to eliminate the effect of such coding or classification changes.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of BBA.

(c) SPECIAL RULE FOR PAYMENT FOR 2001.—Notwithstanding the amendment made by subsection (a), for purposes of making payments under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) for covered OPD services furnished during 2001, the medicare OPD fee schedule amount under such section—

(1) for services furnished on or after January 1, 2001, and before April 1, 2001, shall be the medicare OPD fee schedule amount for 2001 as determined under the provisions of law in effect on the day before the date of the enactment of this Act; and

(2) for services furnished on or after April 1, 2001, and before January 1, 2002, shall be the fee schedule amount (as determined taking into account the amendment made by subsection (a)), increased by a transitional percentage allowance equal to 0.32 percent (to account for the timing of implementation of the full market basket update).

SEC. 402. CLARIFYING PROCESS AND STANDARDS FOR DETERMINING ELIGIBILITY OF DEVICES FOR PASS-THROUGH PAYMENTS UNDER HOSPITAL OUTPATIENT PPS.

(a) IN GENERAL.—Section 1833(t)(6) (42 U.S.C. 1395l(t)(6)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) USE OF CATEGORIES IN DETERMINING ELIGIBILITY OF A DEVICE FOR PASS-THROUGH PAYMENTS.—The following provisions apply for purposes of determining whether a medical device qualifies for additional payments under clause (ii) or (iv) of subparagraph (A):

"(i) ESTABLISHMENT OF INITIAL CATEGORIES.—

"(I) IN GENERAL.—The Secretary shall initially establish under this clause categories of medical devices based on type of device by April 1, 2001. Such categories shall be established in a manner such that each medical device that meets the requirements of clause (ii) or (iv) of subparagraph (A) as of January 1, 2001, is included in such a category and no such device is included in more than one category. For purposes of the preceding sentence, whether a medical device meets such requirements as of such date shall be determined

on the basis of the program memoranda issued before such date.

"(II) AUTHORIZATION OF IMPLEMENTATION OTHER THAN THROUGH REGULATIONS.—The categories may be established under this clause by program memorandum or otherwise, after consultation with groups representing hospitals, manufacturers of medical devices, and other affected parties.

"(ii) ESTABLISHING CRITERIA FOR ADDITIONAL CATEGORIES.—

"(I) IN GENERAL.—The Secretary shall establish criteria that will be used for creation of additional categories (other than those established under clause (i)) through rulemaking (which may include use of an interim final rule with comment period).

"(II) STANDARD.—Such categories shall be established under this clause in a manner such that no medical device is described by more than one category. Such criteria shall include a test of whether the average cost of devices that would be included in a category and are in use at the time the category is established is not insignificant, as described in subparagraph (A)(iv)(II).

"(III) DEADLINE.—Criteria shall first be established under this clause by July 1, 2001. The Secretary may establish in compelling circumstances categories under this clause before the date such criteria are established.

"(IV) ADDING CATEGORIES.—The Secretary shall promptly establish a new category of medical devices under this clause for any medical device that meets the requirements of subparagraph (A)(iv) and for which none of the categories in effect (or that were previously in effect) is appropriate.

"(iii) PERIOD FOR WHICH CATEGORY IS IN EFFECT.—A category of medical devices established under clause (i) or (ii) shall be in effect for a period of at least 2 years, but not more than 3 years, that begins—

"(I) in the case of a category established under clause (i), on the first date on which payment was made under this paragraph for any device described by such category (including payments made during the period before April 1, 2001); and

"(II) in the case of any other category, on the first date on which payment is made under this paragraph for any medical device that is described by such category.

"(iv) REQUIREMENTS TREATED AS MET.—A medical device shall be treated as meeting the requirements of subparagraph (A)(iv), regardless of whether the device meets the requirement of subclause (I) of such subparagraph, if—

"(I) the device is described by a category established and in effect under clause (i); or

"(II) the device is described by a category established and in effect under clause (ii) and an application under section 515 of the Federal Food, Drug, and Cosmetic Act has been approved with respect to the device, or the device has been cleared for market under section 510(k) of such Act, or the device is exempt from the requirements of section 510(k) of such Act pursuant to subsection (l) or (m) of section 510 of such Act or section 520(g) of such Act.

Nothing in this clause shall be construed as requiring an application or prior approval (other than that described in subclause (II)) in order for a covered device described by a category to qualify for payment under this paragraph.

"(C) LIMITED PERIOD OF PAYMENT.—

"(i) DRUGS AND BIOLOGICALS.—The payment under this paragraph with respect to a drug or biological shall only apply during a period of at least 2 years, but not more than 3 years, that begins—

"(I) on the first date this subsection is implemented in the case of a drug or biological described in clause (i), (ii), or (iii) of subparagraph (A) and in the case of a drug or biological described in subparagraph (A)(iv) and for which payment under this part is made as an outpatient hospital service before such first date; or

"(II) in the case of a drug or biological described in subparagraph (A)(iv) not described in subclause (I), on the first date on which payment is made under this part for the drug or biological as an outpatient hospital service.

"(ii) MEDICAL DEVICES.—Payment shall be made under this paragraph with respect to a medical device only if such device—

"(I) is described by a category of medical devices established and in effect under subparagraph (B); and

"(II) is provided as part of a service (or group of services) paid for under this subsection and provided during the period for which such category is in effect under such subparagraph.".

(b) CONFORMING AMENDMENTS.—Section 1833(t) (42 U.S.C. 1395l(t)) is further amended—

(1) in paragraph (6)(A)(iv)(II), by striking "the cost of the device, drug, or biological" and inserting "the cost of the drug or biological or the average cost of the category of devices";

(2) in paragraph (6)(D) (as redesignated by subsection (a)(1)), by striking "subparagraph (D)(iii)" in the matter preceding clause (i) and inserting "subparagraph (E)(iii)"; and

(3) in paragraph (12)(E), by striking "additional payments (consistent with paragraph (6)(B))" and inserting "additional payments, the determination and deletion of initial and new categories (consistent with subparagraphs (B) and (C) of paragraph (6))".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

(d) TRANSITION.—

(1) IN GENERAL.—In the case of a medical device provided as part of a service (or group of services) furnished during the period before initial categories are implemented under subparagraph (B)(i) of section 1833(t)(6) of the Social Security Act (as amended by subsection (a)), payment shall be made for such device under such section in accordance with the provisions in effect before the date of the enactment of this Act. In addition, beginning on the date that is 30 days after the date of the enactment of this Act, payment shall be made for such a device that is not included in a program memorandum described in such subparagraph if the Secretary of Health and Human Services determines that the device (including a device that would have been included in such program memoranda but for the requirement of subparagraph (A)(iv)(I) of that section) is likely to be described by such an initial category.

(2) APPLICATION OF CURRENT PROCESS.—Notwithstanding any other provision of law, the Secretary shall continue to accept applications with respect to medical devices under the process established pursuant to paragraph (6) of section 1833(t) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) through December 1, 2000, and any device—

(A) with respect to which an application was submitted (pursuant to such process) on or before such date; and

(B) that meets the requirements of clause (ii) or (iv) of subparagraph (A) of such paragraph (as determined pursuant to such process),

shall be treated as a device with respect to which an initial category is required to be established under subparagraph (B)(i) of such paragraph (as amended by subsection (a)(2)).

SEC. 403. APPLICATION OF OPD PPS TRANSITIONAL CORRIDOR PAYMENTS TO CERTAIN HOSPITALS THAT DID NOT SUBMIT A 1996 COST REPORT.

(a) IN GENERAL.—Section 1833(t)(7)(F)(ii)(I) (42 U.S.C. 1395l(t)(7)(F)(ii)(I)) is amended by inserting "(or in the case of a hospital that did not submit a cost report for such period, during the first subsequent cost reporting period ending before 2001 for which the hospital submitted a cost report)" after "1996".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of BBRA.

SEC. 404. APPLICATION OF RULES FOR DETERMINING PROVIDER-BASED STATUS FOR CERTAIN ENTITIES.

(a) GRANDFATHER.—Notwithstanding any other provision of law, effective October 1, 2000, for purposes of provider-based status under title XVIII of the Social Security Act—

(1) any facility or organization that is treated as provider-based in relation to a hospital or critical access hospital under such title as of such date shall continue to be treated as provider-based in relation to such hospital or critical access hospital under such title until October 1, 2002; and

(2) the requirements, limitations, and exclusions specified in subsections (d), (e), (f), and (h) of section 413.65 of title 42, Code of Federal Regulations, shall not apply to such facility or organization in relation to such hospital or critical access hospital until October 1, 2002.

(b) CONTINUING CRITERIA FOR MEETING GEOGRAPHIC LOCATION REQUIREMENT.—Except as provided in subsection (a), in making determinations of provider-based status on or after October 1, 2000, the following rules shall apply:

(1) The facility or organization shall be treated as satisfying any requirements and standards for geographic location in relation to a hospital or a critical access hospital if the facility or organization—

(A) satisfies the requirements of section 413.65(d)(7) of title 42, Code of Federal Regulations; or

(B) is located not more than 35 miles from the main campus of the hospital or critical access hospital.

(2) The facility or organization shall be treated as satisfying any of the requirements and standards for geographic location in relation to a hospital or a critical access hospital if the facility or organization is owned and operated by a hospital or critical access hospital that—

(A) is owned or operated by a unit of State or local government, is a public or private nonprofit corporation that is formally granted governmental powers by a unit of State or local government, or is a private hospital that has a contract with a State or local government that includes the operation of clinics located off the main campus of the hospital to assure access in a well-defined service area to health care services for low-income individuals who are not entitled to benefits under title XVIII (or medical assistance under a State plan under title XIX) of the Social Security Act; and

(B) has a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F))) greater than 11.75 percent or is described in clause (i)(II) of such section.

(c) TEMPORARY CRITERIA.—For purposes of title XVIII of the Social Security Act, a facility or organization for which a determination of provider-based status in relation to a hospital or critical access hospital is requested on or after October 1, 2000, and before October 1, 2002, shall be treated as having provider-based status in relation to such a hospital or a critical access hospital for any period before a determination is made with respect to such status pursuant to such request.

(d) DEFINITIONS.—For purposes of this section, the terms "hospital" and "critical access hospital" have the meanings given such terms in subsections (e) and (mm)(1), respectively, of section 1861 of the Social Security Act (42 U.S.C. 1395x).

SEC. 405. TREATMENT OF CHILDREN'S HOSPITALS UNDER PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1833(t) (42 U.S.C. 1395l(t)) is amended—

(1) in the heading of paragraph (7)(D)(ii), by inserting "AND CHILDREN'S HOSPITALS" after "CANCER HOSPITALS"; and

(2) in paragraphs (7)(D)(ii) and (11), by striking "section 1886(d)(1)(B)(v)" and inserting "clause (iii) or (v) of section 1886(d)(1)(B)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the enactment of section 202 of BBRA (113 Stat. 1501A–342).

SEC. 406. INCLUSION OF TEMPERATURE MONITORED CRYOABLATION IN TRANSITIONAL PASS-THROUGH FOR CERTAIN MEDICAL DEVICES, DRUGS, AND BIOLOGICALS UNDER OPD PPS.

(a) IN GENERAL.—Section 1833(t)(6)(A)(ii) (42 U.S.C. 1395l(t)(6)(A)(ii)) is amended by inserting "or temperature monitored cryoablation" after "device of brachytherapy".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to devices furnished on or after April 1, 2001.

Subtitle B—Provisions Relating to Physicians' Services

SEC. 411. GAO STUDIES RELATING TO PHYSICIANS' SERVICES.

(a) STUDY OF SPECIALIST PHYSICIANS' SERVICES FURNISHED IN PHYSICIANS' OFFICES AND HOSPITAL OUTPATIENT DEPARTMENT SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to examine the appropriateness of furnishing in physicians' offices specialist physicians' services (such as gastrointestinal endoscopic physicians' services) which are ordinarily furnished in hospital outpatient departments. In conducting this study, the Comptroller General shall—

(A) review available scientific and clinical evidence about the safety of performing procedures in physicians' offices and hospital outpatient departments;

(B) assess whether resource-based practice expense relative values established by the Secretary of Health and Human Services under the medicare physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for such specialist physicians' services furnished in physicians' offices and hospital outpatient departments create an incentive to furnish such services in physicians' offices instead of hospital outpatient departments; and

(C) assess the implications for access to care for medicare beneficiaries if the medicare program were not to cover such services in physicians' offices.

(2) REPORT.—Not later than July 1, 2001, the Comptroller General shall submit to Congress a report on such study and include such recommendations as the Comptroller General determines to be appropriate.

(b) STUDY OF THE RESOURCE-BASED PRACTICE EXPENSE SYSTEM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the refinements to the practice expense relative value units during the transition to a resource-based practice expense system for physician payments under the medicare program under title XVIII of the Social Security Act. Such study shall examine how the Secretary of Health and Human Services has accepted and used the practice expense data submitted under section 212 of BBRA (113 Stat. 1501A–350).

(2) REPORT.—Not later than July 1, 2001, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations regarding—

(A) improvements in the process for acceptance and use of practice expense data under section 212 of BBRA;

(B) any change or adjustment that is appropriate to ensure full access to a spectrum of care for beneficiaries under the medicare program; and

(C) the appropriateness of payments to physicians.

SEC. 412. PHYSICIAN GROUP PRACTICE DEMONSTRATION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1866 the following new sections:

"DEMONSTRATION OF APPLICATION OF PHYSICIAN VOLUME INCREASES TO GROUP PRACTICES

"SEC. 1866A. (a) DEMONSTRATION PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall conduct demonstration projects to test and, if proven effective, expand the use of incentives to health care groups participating in the program under this title that—

"(A) encourage coordination of the care furnished to individuals under the programs under parts A and B by institutional and other providers, practitioners, and suppliers of health care items and services;

"(B) encourage investment in administrative structures and processes to ensure efficient service delivery; and

"(C) reward physicians for improving health outcomes.

Such projects shall focus on the efficiencies of furnishing health care in a group-practice setting as compared to the efficiencies of furnishing health care in other health care delivery systems.

"(2) ADMINISTRATION BY CONTRACT.—Except as otherwise specifically provided, the Secretary may administer the program under this section in accordance with section 1866B.

"(3) DEFINITIONS.—For purposes of this section, terms have the following meanings:

"(A) PHYSICIAN.—Except as the Secretary may otherwise provide, the term 'physician' means any individual who furnishes services which may be paid for as physicians' services under this title.

"(B) HEALTH CARE GROUP.—The term 'health care group' means a group of physicians (as defined in subparagraph (A)) organized at least in part for the purpose of providing physicians' services under this title. As the Secretary finds appropriate, a health care group may include a hospital and any other individual or entity furnishing items or services for which payment may be made under this title that is affiliated with the health care group under an arrangement structured so that such individual or entity participates in a demonstration under this section and will share in any bonus earned under subsection (d).

"(b) ELIGIBILITY CRITERIA.—

"(1) IN GENERAL.—The Secretary is authorized to establish criteria for health care groups eligible to participate in a demonstration under this section, including criteria relating to numbers of health care professionals in, and of patients served by, the group, scope of services provided, and quality of care.

"(2) PAYMENT METHOD.—A health care group participating in the demonstration under this section shall agree with respect to services furnished to beneficiaries within the scope of the demonstration (as determined under subsection (c))—

"(A) to be paid on a fee-for-service basis; and

"(B) that payment with respect to all such services furnished by members of the health care group to such beneficiaries shall (where determined appropriate by the Secretary) be made to a single entity.

"(3) DATA REPORTING.—A health care group participating in a demonstration under this section shall report to the Secretary such data, at such times and in such format as the Secretary requires, for purposes of monitoring and evaluation of the demonstration under this section.

"(c) PATIENTS WITHIN SCOPE OF DEMONSTRATION.—

"(1) IN GENERAL.—The Secretary shall specify, in accordance with this subsection, the criteria for identifying those patients of a health care group who shall be considered within the scope of the demonstration under this section for purposes of application of subsection (d) and for assessment of the effectiveness of the group in achieving the objectives of this section.

"(2) OTHER CRITERIA.—The Secretary may establish additional criteria for inclusion of beneficiaries within a demonstration under this section, which may include frequency of contact with physicians in the group or other factors or criteria that the Secretary finds to be appropriate.

"(3) NOTICE REQUIREMENTS.—In the case of each beneficiary determined to be within the scope of a demonstration under this section with respect to a specific health care group, the Secretary shall ensure that such beneficiary is notified of the incentives, and of any waivers of coverage or payment rules, applicable to such group under such demonstration.

"(d) INCENTIVES.—

"(1) PERFORMANCE TARGET.—The Secretary shall establish for each health care group participating in a demonstration under this section—

"(A) a base expenditure amount, equal to the average total payments under parts A and B for patients served by the health care group on a fee-for-service basis in a base period determined by the Secretary; and

"(B) an annual per capita expenditure target for patients determined to be within the scope of the demonstration, reflecting the base expenditure amount adjusted for risk and expected growth rates.

"(2) INCENTIVE BONUS.—The Secretary shall pay to each participating health care group (subject to paragraph (4)) a bonus for each year under the demonstration equal to a portion of the medicare savings realized for such year relative to the performance target.

"(3) ADDITIONAL BONUS FOR PROCESS AND OUTCOME IMPROVEMENTS.—At such time as the Secretary has established

appropriate criteria based on evidence the Secretary determines to be sufficient, the Secretary shall also pay to a participating health care group (subject to paragraph (4)) an additional bonus for a year, equal to such portion as the Secretary may designate of the saving to the program under this title resulting from process improvements made by and patient outcome improvements attributable to activities of the group.

"(4) LIMITATION.—The Secretary shall limit bonus payments under this section as necessary to ensure that the aggregate expenditures under this title (inclusive of bonus payments) with respect to patients within the scope of the demonstration do not exceed the amount which the Secretary estimates would be expended if the demonstration projects under this section were not implemented.

"PROVISIONS FOR ADMINISTRATION OF DEMONSTRATION PROGRAM

"SEC. 1866B. (a) GENERAL ADMINISTRATIVE AUTHORITY.—

"(1) BENEFICIARY ELIGIBILITY.—Except as otherwise provided by the Secretary, an individual shall only be eligible to receive benefits under the program under section 1866A (in this section referred to as the 'demonstration program') if such individual—

"(A) is enrolled under the program under part B and entitled to benefits under part A; and

"(B) is not enrolled in a Medicare+Choice plan under part C, an eligible organization under a contract under section 1876 (or a similar organization operating under a demonstration project authority), an organization with an agreement under section 1833(a)(1)(A), or a PACE program under section 1894.

"(2) SECRETARY'S DISCRETION AS TO SCOPE OF PROGRAM.—The Secretary may limit the implementation of the demonstration program to—

"(A) a geographic area (or areas) that the Secretary designates for purposes of the program, based upon such criteria as the Secretary finds appropriate;

"(B) a subgroup (or subgroups) of beneficiaries or individuals and entities furnishing items or services (otherwise eligible to participate in the program), selected on the basis of the number of such participants that the Secretary finds consistent with the effective and efficient implementation of the program;

"(C) an element (or elements) of the program that the Secretary determines to be suitable for implementation; or

"(D) any combination of any of the limits described in subparagraphs (A) through (C).

"(3) VOLUNTARY RECEIPT OF ITEMS AND SERVICES.—Items and services shall be furnished to an individual under the demonstration program only at the individual's election.

"(4) AGREEMENTS.—The Secretary is authorized to enter into agreements with individuals and entities to furnish health care items and services to beneficiaries under the demonstration program.

"(5) PROGRAM STANDARDS AND CRITERIA.—The Secretary shall establish performance standards for the demonstration program including, as applicable, standards for quality of health

care items and services, cost-effectiveness, beneficiary satisfaction, and such other factors as the Secretary finds appropriate. The eligibility of individuals or entities for the initial award, continuation, and renewal of agreements to provide health care items and services under the program shall be conditioned, at a minimum, on performance that meets or exceeds such standards.

"(6) ADMINISTRATIVE REVIEW OF DECISIONS AFFECTING INDIVIDUALS AND ENTITIES FURNISHING SERVICES.—An individual or entity furnishing services under the demonstration program shall be entitled to a review by the program administrator (or, if the Secretary has not contracted with a program administrator, by the Secretary) of a decision not to enter into, or to terminate, or not to renew, an agreement with the entity to provide health care items or services under the program.

"(7) SECRETARY'S REVIEW OF MARKETING MATERIALS.—An agreement with an individual or entity furnishing services under the demonstration program shall require the individual or entity to guarantee that it will not distribute materials that market items or services under the program without the Secretary's prior review and approval.

"(8) PAYMENT IN FULL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an individual or entity receiving payment from the Secretary under a contract or agreement under the demonstration program shall agree to accept such payment as payment in full, and such payment shall be in lieu of any payments to which the individual or entity would otherwise be entitled under this title.

"(B) COLLECTION OF DEDUCTIBLES AND COINSURANCE.—Such individual or entity may collect any applicable deductible or coinsurance amount from a beneficiary.

"(b) CONTRACTS FOR PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—The Secretary may administer the demonstration program through a contract with a program administrator in accordance with the provisions of this subsection.

"(2) SCOPE OF PROGRAM ADMINISTRATOR CONTRACTS.—The Secretary may enter into such contracts for a limited geographic area, or on a regional or national basis.

"(3) ELIGIBLE CONTRACTORS.—The Secretary may contract for the administration of the program with—

"(A) an entity that, under a contract under section 1816 or 1842, determines the amount of and makes payments for health care items and services furnished under this title; or

"(B) any other entity with substantial experience in managing the type of program concerned.

"(4) CONTRACT AWARD, DURATION, AND RENEWAL.—

"(A) IN GENERAL.—A contract under this subsection shall be for an initial term of up to three years, renewable for additional terms of up to three years.

"(B) NONCOMPETITIVE AWARD AND RENEWAL FOR ENTITIES ADMINISTERING PART A OR PART B PAYMENTS.—The Secretary may enter or renew a contract under this subsection with an entity described in paragraph (3)(A) without regard to the requirements of section 5 of title 41, United States Code.

"(5) APPLICABILITY OF FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall apply to program administration contracts under this subsection.

"(6) PERFORMANCE STANDARDS.—The Secretary shall establish performance standards for the program administrator including, as applicable, standards for the quality and cost-effectiveness of the program administered, and such other factors as the Secretary finds appropriate. The eligibility of entities for the initial award, continuation, and renewal of program administration contracts shall be conditioned, at a minimum, on performance that meets or exceeds such standards.

"(7) FUNCTIONS OF PROGRAM ADMINISTRATOR.—A program administrator shall perform any or all of the following functions, as specified by the Secretary:

"(A) AGREEMENTS WITH ENTITIES FURNISHING HEALTH CARE ITEMS AND SERVICES.—Determine the qualifications of entities seeking to enter or renew agreements to provide services under the demonstration program, and as appropriate enter or renew (or refuse to enter or renew) such agreements on behalf of the Secretary.

"(B) ESTABLISHMENT OF PAYMENT RATES.—Negotiate or otherwise establish, subject to the Secretary's approval, payment rates for covered health care items and services.

"(C) PAYMENT OF CLAIMS OR FEES.—Administer payments for health care items or services furnished under the program.

"(D) PAYMENT OF BONUSES.—Using such guidelines as the Secretary shall establish, and subject to the approval of the Secretary, make bonus payments as described in subsection (c)(2)(A)(ii) to entities furnishing items or services for which payment may be made under the program.

"(E) OVERSIGHT.—Monitor the compliance of individuals and entities with agreements under the program with the conditions of participation.

"(F) ADMINISTRATIVE REVIEW.—Conduct reviews of adverse determinations specified in subsection (a)(6).

"(G) REVIEW OF MARKETING MATERIALS.—Conduct a review of marketing materials proposed by an entity furnishing services under the program.

"(H) ADDITIONAL FUNCTIONS.—Perform such other functions as the Secretary may specify.

"(8) LIMITATION OF LIABILITY.—The provisions of section 1157(b) shall apply with respect to activities of contractors and their officers, employees, and agents under a contract under this subsection.

"(9) INFORMATION SHARING.—Notwithstanding section 1106 and section 552a of title 5, United States Code, the Secretary is authorized to disclose to an entity with a program administration contract under this subsection such information (including medical information) on individuals receiving health care items and services under the program as the entity may require to carry out its responsibilities under the contract.

"(c) RULES APPLICABLE TO BOTH PROGRAM AGREEMENTS AND PROGRAM ADMINISTRATION CONTRACTS.—

"(1) RECORDS, REPORTS, AND AUDITS.—The Secretary is authorized to require entities with agreements to provide health care items or services under the demonstration program, and

entities with program administration contracts under subsection (b), to maintain adequate records, to afford the Secretary access to such records (including for audit purposes), and to furnish such reports and other materials (including audited financial statements and performance data) as the Secretary may require for purposes of implementation, oversight, and evaluation of the program and of individuals' and entities' effectiveness in performance of such agreements or contracts.

"(2) BONUSES.—Notwithstanding any other provision of law, but subject to subparagraph (B)(ii), the Secretary may make bonus payments under the demonstration program from the Federal Health Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts that do not exceed the amounts authorized under the program in accordance with the following:

"(A) PAYMENTS TO PROGRAM ADMINISTRATORS.—The Secretary may make bonus payments under the program to program administrators.

"(B) PAYMENTS TO ENTITIES FURNISHING SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make bonus payments to individuals or entities furnishing items or services for which payment may be made under the demonstration program, or may authorize the program administrator to make such bonus payments in accordance with such guidelines as the Secretary shall establish and subject to the Secretary's approval.

"(ii) LIMITATIONS.—The Secretary may condition such payments on the achievement of such standards related to efficiency, improvement in processes or outcomes of care, or such other factors as the Secretary determines to be appropriate.

"(3) ANTIDISCRIMINATION LIMITATION.—The Secretary shall not enter into an agreement with an entity to provide health care items or services under the demonstration program, or with an entity to administer the program, unless such entity guarantees that it will not deny, limit, or condition the coverage or provision of benefits under the program, for individuals eligible to be enrolled under such program, based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

"(d) LIMITATIONS ON JUDICIAL REVIEW.—The following actions and determinations with respect to the demonstration program shall not be subject to review by a judicial or administrative tribunal:

"(1) Limiting the implementation of the program under subsection (a)(2).

"(2) Establishment of program participation standards under subsection (a)(5) or the denial or termination of, or refusal to renew, an agreement with an entity to provide health care items and services under the program.

"(3) Establishment of program administration contract performance standards under subsection (b)(6), the refusal to renew a program administration contract, or the noncompetitive award or renewal of a program administration contract under subsection (b)(4)(B).

"(4) Establishment of payment rates, through negotiation or otherwise, under a program agreement or a program administration contract.

"(5) A determination with respect to the program (where specifically authorized by the program authority or by subsection (c)(2))—

"(A) as to whether cost savings have been achieved, and the amount of savings; or

"(B) as to whether, to whom, and in what amounts bonuses will be paid.

"(e) APPLICATION LIMITED TO PARTS A AND B.—None of the provisions of this section or of the demonstration program shall apply to the programs under part C.

"(f) REPORTS TO CONGRESS.—Not later than two years after the date of the enactment of this section, and biennially thereafter for six years, the Secretary shall report to Congress on the use of authorities under the demonstration program. Each report shall address the impact of the use of those authorities on expenditures, access, and quality under the programs under this title.".

(b) GAO REPORT.—Not later than 2 years after the date on which the demonstration project under section 1866A of the Social Security Act, as added by subsection (a), is implemented, the Comptroller General of the United States shall submit to Congress a report on such demonstration project. The report shall include such recommendations with respect to changes to the demonstration project that the Comptroller General determines appropriate.

SEC. 413. STUDY ON ENROLLMENT PROCEDURES FOR GROUPS THAT RETAIN INDEPENDENT CONTRACTOR PHYSICIANS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the current medicare enrollment process for groups that retain independent contractor physicians with particular emphasis on hospital-based physicians, such as emergency department staffing groups. In conducting the evaluation, the Comptroller General shall consult with groups that retain independent contractor physicians and shall—

(1) review the issuance of individual medicare provider numbers and the possible medicare program integrity vulnerabilities of the current process;

(2) review direct and indirect costs associated with the current process incurred by the medicare program and groups that retain independent contractor physicians;

(3) assess the effect on program integrity by the enrollment of groups that retain independent contractor hospital-based physicians; and

(4) develop suggested procedures for the enrollment of these groups.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a).

Subtitle C—Other Services

SEC. 421. ONE-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; REPORT ON STANDARDS FOR SUPERVISION OF PHYSICAL THERAPY ASSISTANTS.

(a) IN GENERAL.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking "2000 and 2001." and inserting "2000, 2001, and 2002.".

(b) CONFORMING AMENDMENT TO CONTINUE FOCUSED MEDICAL REVIEWS OF CLAIMS DURING MORATORIUM PERIOD.—Section 221(a)(2) of BBRA (113 Stat. 1501A–351) is amended by striking "(under the amendment made by paragraph (1)(B))".

(c) STUDY ON STANDARDS FOR SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the implications—

(A) of eliminating the "in the room" supervision requirement for medicare payment for services of physical therapy assistants who are supervised by physical therapists; and

(B) of such requirement on the cap imposed under section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) on physical therapy services.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 422. UPDATE IN RENAL DIALYSIS COMPOSITE RATE.

(a) UPDATE.—

(1) IN GENERAL.—The last sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking "for such services furnished on or after January 1, 2001, by 1.2 percent" and inserting "for such services furnished on or after January 1, 2001, by 2.4 percent".

(2) PROHIBITION ON EXCEPTIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary of Health and Human Services may not provide for an exception under section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) on or after December 31, 2000.

(B) DEADLINE FOR NEW APPLICATIONS.—In the case of a facility that during 2000 did not file for an exception rate under such section, the facility may submit an application for an exception rate by not later than July 1, 2001.

(C) PROTECTION OF APPROVED EXCEPTION RATES.—Any exception rate under such section in effect on December 31, 2000 (or, in the case of an application under subparagraph (B), as approved under such application) shall continue in effect so long as such rate is greater than the composite rate as updated by the amendment made by paragraph (1).

(b) DEVELOPMENT OF ESRD MARKET BASKET.—

(1) DEVELOPMENT.—The Secretary of Health and Human Services shall collect data and develop an ESRD market basket whereby the Secretary can estimate, before the beginning of a year, the percentage by which the costs for the year of

the mix of labor and nonlabor goods and services included in the ESRD composite rate under section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) will exceed the costs of such mix of goods and services for the preceding year. In developing such index, the Secretary may take into account measures of changes in—

(A) technology used in furnishing dialysis services;

(B) the manner or method of furnishing dialysis services; and

(C) the amounts by which the payments under such section for all services billed by a facility for a year exceed the aggregate allowable audited costs of such services for such facility for such year.

(2) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on the index developed under paragraph (1) no later than July 1, 2002, and shall include in the report recommendations on the appropriateness of an annual or periodic update mechanism for renal dialysis services under the medicare program under title XVIII of the Social Security Act based on such index.

(c) INCLUSION OF ADDITIONAL SERVICES IN COMPOSITE RATE.—

(1) DEVELOPMENT.—The Secretary of Health and Human Services shall develop a system which includes, to the maximum extent feasible, in the composite rate used for payment under section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)), payment for clinical diagnostic laboratory tests and drugs (including drugs paid under section 1881(b)(11)(B) of such Act (42 U.S.C. 1395rr(b)(11)(B)) that are routinely used in furnishing dialysis services to medicare beneficiaries but which are currently separately billable by renal dialysis facilities.

(2) REPORT.—The Secretary shall include, as part of the report submitted under subsection (b)(2), a report on the system developed under paragraph (1) and recommendations on the appropriateness of incorporating the system into medicare payment for renal dialysis services.

(d) GAO STUDY ON ACCESS TO SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall study access of medicare beneficiaries to renal dialysis services. Such study shall include whether there is a sufficient supply of facilities to furnish needed renal dialysis services, whether medicare payment levels are appropriate, taking into account audited costs of facilities for all services furnished, to ensure continued access to such services, and improvements in access (and quality of care) that may result in the increased use of long nightly and short daily hemodialysis modalities.

(2) REPORT.—Not later than January 1, 2003, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

(e) SPECIAL RULE FOR PAYMENT FOR 2001.—Notwithstanding the amendment made by subsection (a)(1), for purposes of making payments under section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) for dialysis services furnished during 2001, the composite rate payment under paragraph (7) of such section—

(1) for services furnished on or after January 1, 2001, and before April 1, 2001, shall be the composite rate payment

determined under the provisions of law in effect on the day before the date of the enactment of this Act; and

(2) for services furnished on or after April 1, 2001, and before January 1, 2002, shall be the composite rate payment (as determined taking into account the amendment made by subsection (a)(1)) increased by a transitional percentage allowance equal to 0.39 percent (to account for the timing of implementation of the CPI update).

SEC. 423. PAYMENT FOR AMBULANCE SERVICES.

(a) RESTORATION OF FULL CPI INCREASE FOR 2001.—

(1) IN GENERAL.—Section 1834(l)(3) (42 U.S.C. 1395m(l)(3)) is amended by striking "reduced in the case of 2001 and 2002" each place it appears and inserting "reduced in the case of 2002".

(2) SPECIAL RULE FOR PAYMENT FOR 2001.—Notwithstanding the amendment made by paragraph (1), for purposes of making payments for ambulance services under part B of title XVIII of the Social Security Act, for services furnished during 2001, the "percentage increase in the consumer price index" specified in section 1834(l)(3)(B) of such Act (42 U.S.C. 1395m(l)(3)(B))—

(A) for services furnished on or after January 1, 2001, and before July 1, 2001, shall be the percentage increase for 2001 as determined under the provisions of law in effect on the day before the date of the enactment of this Act; and

(B) for services furnished on or after July 1, 2001, and before January 1, 2002, shall be equal to 4.7 percent.

(b) MILEAGE PAYMENTS.—

(1) IN GENERAL.—Section 1834(l)(2)(E) (42 U.S.C. 1395m(l)(2)(E)) is amended by inserting before the period at the end the following: ", except that such phase-in shall provide for full payment of any national mileage rate for ambulance services provided by suppliers that are paid by carriers in any of the 50 States where payment by a carrier for such services for all such suppliers in such State did not, prior to the implementation of the fee schedule, include a separate amount for all mileage within the county from which the beneficiary is transported".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after July 1, 2001.

SEC. 424. AMBULATORY SURGICAL CENTERS.

(a) DELAY IN IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—The Secretary of Health and Human Services may not implement a revised prospective payment system for services of ambulatory surgical facilities under section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) before January 1, 2002.

(b) EXTENDING PHASE-IN TO 4 YEARS.—Section 226 of the BBRA (113 Stat. 1501A–354) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) in the first year of its implementation, only a proportion (specified by the Secretary and not to exceed one-fourth) of the payment for such services shall be made in accordance with such system and the remainder shall be made in accordance with current regulations; and

"(2) in each of the following 2 years a proportion (specified by the Secretary and not to exceed one-half and three-fourths,

respectively) of the payment for such services shall be made under such system and the remainder shall be made in accordance with current regulations.".

(c) DEADLINE FOR USE OF 1999 OR LATER COST SURVEYS.—Section 226 of BBRA (113 Stat. 1501A–354) is amended by adding at the end the following:

"By not later than January 1, 2003, the Secretary shall incorporate data from a 1999 medicare cost survey or a subsequent cost survey for purposes of implementing or revising such system.".

SEC. 425. FULL UPDATE FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (F);

(2) in subparagraph (C)—

(A) by striking "through 2002" and inserting "through 2000"; and

(B) by striking "and" at the end; and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) for 2001, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June 2000;

"(E) for 2002, 0 percentage points; and".

(b) SPECIAL RULE FOR PAYMENT FOR 2001.—Notwithstanding the amendments made by subsection (a), for purposes of making payments for durable medical equipment under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), other than for oxygen and oxygen equipment specified in paragraph (9) of such section, the payment basis recognized for 2001 under such section—

(1) for items furnished on or after January 1, 2001, and before July 1, 2001, shall be the payment basis for 2001 as determined under the provisions of law in effect on the day before the date of the enactment of this Act (including the application of section 228(a)(1) of BBRA); and

(2) for items furnished on or after July 1, 2001, and before January 1, 2002, shall be the payment basis that is determined under such section 1834(a) if such section 228(a)(1) did not apply and taking into account the amendment made by subsection (a), increased by a transitional percentage allowance equal to 3.28 percent (to account for the timing of implementation of the CPI update).

SEC. 426. FULL UPDATE FOR ORTHOTICS AND PROSTHETICS.

(a) IN GENERAL.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) by redesignating clause (vi) as clause (viii);

(2) in clause (v)—

(A) by striking "through 2002" and inserting "through 2000"; and

(B) by striking "and" at the end; and

(3) by inserting after clause (v) the following new clause:

"(vi) for 2001, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June 2000;

"(vii) for 2002, 1 percent; and".

(b) SPECIAL RULE FOR PAYMENT FOR 2001.—Notwithstanding the amendments made by subsection (a), for purposes of making payments for prosthetic devices and orthotics and prosthetics (as defined in subparagraphs (B) and (C) of paragraph (4) of section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)) under such section, the payment basis recognized for 2001 under paragraph (2) of such section—

(1) for items furnished on or after January 1, 2001, and before July 1, 2001, shall be the payment basis for 2001 as determined under the provisions of law in effect on the day before the date of the enactment of this Act; and

(2) for items furnished on or after July 1, 2001, and before January 1, 2002, shall be the payment basis that is determined under such section taking into account the amendments made by subsection (a), increased by a transitional percentage allowance equal to 2.6 percent (to account for the timing of implementation of the CPI update).

SEC. 427. ESTABLISHMENT OF SPECIAL PAYMENT PROVISIONS AND REQUIREMENTS FOR PROSTHETICS AND CERTAIN CUSTOM-FABRICATED ORTHOTIC ITEMS.

(a) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following:

"(F) SPECIAL PAYMENT RULES FOR CERTAIN PROSTHETICS AND CUSTOM-FABRICATED ORTHOTICS.—

"(i) IN GENERAL.—No payment shall be made under this subsection for an item of custom-fabricated orthotics described in clause (ii) or for an item of prosthetics unless such item is—

"(I) furnished by a qualified practitioner; and

"(II) fabricated by a qualified practitioner or a qualified supplier at a facility that meets such criteria as the Secretary determines appropriate.

"(ii) DESCRIPTION OF CUSTOM-FABRICATED ITEM.—

"(I) IN GENERAL.—An item described in this clause is an item of custom-fabricated orthotics that requires education, training, and experience to custom-fabricate and that is included in a list established by the Secretary in subclause (II). Such an item does not include shoes and shoe inserts.

"(II) LIST OF ITEMS.—The Secretary, in consultation with appropriate experts in orthotics (including national organizations representing manufacturers of orthotics), shall establish and update as appropriate a list of items to which this subparagraph applies. No item may be included in such list unless the item is individually fabricated for the patient over a positive model of the patient.

"(iii) QUALIFIED PRACTITIONER DEFINED.—In this subparagraph, the term 'qualified practitioner' means a physician or other individual who—

"(I) is a qualified physical therapist or a qualified occupational therapist;

"(II) in the case of a State that provides for the licensing of orthotics and prosthetics, is

licensed in orthotics or prosthetics by the State in which the item is supplied; or

"(III) in the case of a State that does not provide for the licensing of orthotics and prosthetics, is specifically trained and educated to provide or manage the provision of prosthetics and custom-designed or -fabricated orthotics, and is certified by the American Board for Certification in Orthotics and Prosthetics, Inc. or by the Board for Orthotist/Prosthetist Certification, or is credentialed and approved by a program that the Secretary determines, in consultation with appropriate experts in orthotics and prosthetics, has training and education standards that are necessary to provide such prosthetics and orthotics.

"(iv) QUALIFIED SUPPLIER DEFINED.—In this subparagraph, the term 'qualified supplier' means any entity that is accredited by the American Board for Certification in Orthotics and Prosthetics, Inc. or by the Board for Orthotist/Prosthetist Certification, or accredited and approved by a program that the Secretary determines has accreditation and approval standards that are essentially equivalent to those of such Board.".

(b) EFFECTIVE DATE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate revised regulations to carry out the amendment made by subsection (a) using a negotiated rulemaking process under subchapter III of chapter 5 of title 5, United States Code.

(c) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on HCFA Ruling 96–1, issued on September 1, 1996, with respect to distinguishing orthotics from durable medical equipment under the medicare program under title XVIII of the Social Security Act. The study shall assess the following matters:

(A) The compliance of the Secretary of Health and Human Services with the Administrative Procedures Act (under chapter 5 of title 5, United States Code) in making such ruling.

(B) The potential impact of such ruling on the health care furnished to medicare beneficiaries under the medicare program, especially those beneficiaries with degenerative musculoskeletal conditions.

(C) The potential for fraud and abuse under the medicare program if payment were provided for orthotics used as a component of durable medical equipment only when made under the special payment provision for certain prosthetics and custom-fabricated orthotics under section 1834(h)(1)(F) of the Social Security Act, as added by subsection (a) and furnished by qualified practitioners under that section.

(D) The impact on payments under titles XVIII and XIX of the Social Security Act if such ruling were overturned.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 428. REPLACEMENT OF PROSTHETIC DEVICES AND PARTS.

(a) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)), as amended by section 427(a), is further amended by adding at the end the following new subparagraph:

"(G) REPLACEMENT OF PROSTHETIC DEVICES AND PARTS.—

"(i) IN GENERAL.—Payment shall be made for the replacement of prosthetic devices which are artificial limbs, or for the replacement of any part of such devices, without regard to continuous use or useful lifetime restrictions if an ordering physician determines that the provision of a replacement device, or a replacement part of such a device, is necessary because of any of the following:

"(I) A change in the physiological condition of the patient.

"(II) An irreparable change in the condition of the device, or in a part of the device.

"(III) The condition of the device, or the part of the device, requires repairs and the cost of such repairs would be more than 60 percent of the cost of a replacement device, or, as the case may be, of the part being replaced.

"(ii) CONFIRMATION MAY BE REQUIRED IF DEVICE OR PART BEING REPLACED IS LESS THAN 3 YEARS OLD.—If a physician determines that a replacement device, or a replacement part, is necessary pursuant to clause (i)—

"(I) such determination shall be controlling; and

"(II) such replacement device or part shall be deemed to be reasonable and necessary for purposes of section 1862(a)(1)(A);

except that if the device, or part, being replaced is less than 3 years old (calculated from the date on which the beneficiary began to use the device or part), the Secretary may also require confirmation of necessity of the replacement device or replacement part, as the case may be.".

(b) PREEMPTION OF RULE.—The provisions of section 1834(h)(1)(G) as added by subsection (a) shall supersede any rule that as of the date of the enactment of this Act may have applied a 5-year replacement rule with regard to prosthetic devices.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items replaced on or after April 1, 2001.

SEC. 429. REVISED PART B PAYMENT FOR DRUGS AND BIOLOGICALS AND RELATED SERVICES.

(a) RECOMMENDATIONS FOR REVISED PAYMENT METHODOLOGY FOR DRUGS AND BIOLOGICALS.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the reimbursement

for drugs and biologicals under the current medicare payment methodology (provided under section 1842(o) of the Social Security Act (42 U.S.C. 1395u(o))) and for related services under part B of title XVIII of such Act. In the study, the Comptroller General shall—

(i) identify the average prices at which such drugs and biologicals are acquired by physicians and other suppliers;

(ii) quantify the difference between such average prices and the reimbursement amount under such section; and

(iii) determine the extent to which (if any) payment under such part is adequate to compensate physicians, providers of services, or other suppliers of such drugs and biologicals for costs incurred in the administration, handling, or storage of such drugs or biologicals.

(B) CONSULTATION.—In conducting the study under subparagraph (A), the Comptroller General shall consult with physicians, providers of services, and suppliers of drugs and biologicals under the medicare program under title XVIII of such Act, as well as other organizations involved in the distribution of such drugs and biologicals to such physicians, providers of services, and suppliers.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress and to the Secretary of Health and Human Services a report on the study conducted under this subsection, and shall include in such report recommendations for revised payment methodologies described in paragraph (3).

(3) RECOMMENDATIONS FOR REVISED PAYMENT METHODOLOGIES.—

(A) IN GENERAL.—The Comptroller General shall provide specific recommendations for revised payment methodologies for reimbursement for drugs and biologicals and for related services under the medicare program. The Comptroller General may include in the recommendations—

(i) proposals to make adjustments under subsection (c) of section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for the practice expense component of the physician fee schedule under such section for the costs incurred in the administration, handling, or storage of certain categories of such drugs and biologicals, if appropriate; and

(ii) proposals for new payments to providers of services or suppliers for such costs, if appropriate.

(B) ENSURING PATIENT ACCESS TO CARE.—In making recommendations under this paragraph, the Comptroller General shall ensure that any proposed revised payment methodology is designed to ensure that medicare beneficiaries continue to have appropriate access to health care services under the medicare program.

(C) MATTERS CONSIDERED.—In making recommendations under this paragraph, the Comptroller General shall consider—

(i) the method and amount of reimbursement for similar drugs and biologicals made by large group health plans;

(ii) as a result of any revised payment methodology, the potential for patients to receive inpatient or outpatient hospital services in lieu of services in a physician's office; and

(iii) the effect of any revised payment methodology on the delivery of drug therapies by hospital outpatient departments.

(D) COORDINATION WITH BBRA STUDY.—In making recommendations under this paragraph, the Comptroller General shall conclude and take into account the results of the study provided for under section 213(a) of BBRA (113 Stat. 1501A–350).

(b) IMPLEMENTATION OF NEW PAYMENT METHODOLOGY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, based on the recommendations contained in the report under subsection (a), the Secretary of Health and Human Services, subject to paragraph (2), shall revise the payment methodology under section 1842(o) of the Social Security Act (42 U.S.C. 1395u(o)) for drugs and biologicals furnished under part B of the medicare program. To the extent the Secretary determines appropriate, the Secretary may provide for the adjustments to payments amounts referred to in subsection (a)(3)(A)(i) or additional payments referred to in subsection (a)(2)(A)(ii).

(2) LIMITATION.—In revising the payment methodology under paragraph (1), in no case may the estimated aggregate payments for drugs and biologicals under the revised system (including additional payments referred to in subsection (a)(3)(A)(ii)) exceed the aggregate amount of payment for such drugs and biologicals, as projected by the Secretary, that would have been made under the payment methodology in effect under such section 1842(o).

(c) MORATORIUM ON DECREASES IN PAYMENT RATES.—Notwithstanding any other provision of law, effective for drugs and biologicals furnished on or after January 1, 2001, the Secretary may not directly or indirectly decrease the rates of reimbursement (in effect as of such date) for drugs and biologicals under the current medicare payment methodology (provided under section 1842(o) of the Social Security Act (42 U.S.C. 1395u(o))) until such time as the Secretary has reviewed the report submitted under subsection (a)(2).

SEC. 430. CONTRAST ENHANCED DIAGNOSTIC PROCEDURES UNDER HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) SEPARATE CLASSIFICATION.—Section 1833(t)(2) (42 U.S.C. 1395l(t)(2)) is amended—

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

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) the Secretary shall create additional groups of covered OPD services that classify separately those procedures that utilize contrast agents from those that do not.".

(b) CONFORMING AMENDMENT.—Section 1861(t)(1) (42 U.S.C. 1395x(t)(1)) is amended by inserting "(including contrast agents)" after "only such drugs".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after July 1, 2001.

SEC. 431. QUALIFICATIONS FOR COMMUNITY MENTAL HEALTH CENTERS.

(a) MEDICARE PROGRAM.—Section 1861(ff)(3)(B) (42 U.S.C. 1395x(ff)(3)(B)) is amended by striking "entity" and all that follows and inserting the following: "entity that—

"(i)(I) provides the mental health services described in section 1913(c)(1) of the Public Health Service Act; or

"(II) in the case of an entity operating in a State that by law precludes the entity from providing itself the service described in subparagraph (E) of such section, provides for such service by contract with an approved organization or entity (as determined by the Secretary);

"(ii) meets applicable licensing or certification requirements for community mental health centers in the State in which it is located; and

"(iii) meets such additional conditions as the Secretary shall specify to ensure (I) the health and safety of individuals being furnished such services, (II) the effective and efficient furnishing of such services, and (III) the compliance of such entity with the criteria described in section 1931(c)(1) of the Public Health Service Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to community mental health centers with respect to services furnished on or after the first day of the third month beginning after the date of the enactment of this Act.

SEC. 432. PAYMENT OF PHYSICIAN AND NONPHYSICIAN SERVICES IN CERTAIN INDIAN PROVIDERS.

(a) IN GENERAL.—Section 1880 (42 U.S.C. 1395qq) is amended—

(1) by redesignating subsection (e), as added by section 3(b)(1) of the Alaska Native and American Indian Direct Reimbursement Act of 2000 (Public Law 106–417), as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Notwithstanding section 1835(d), subject to subparagraph (B), the Secretary shall make payment under part B to a hospital or an ambulatory care clinic (whether provider-based or freestanding) that is operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined for purposes of subsection (a)) for services described in paragraph (2) furnished in or at the direction of the hospital or clinic under the same situations, terms, and conditions as would apply if the services were furnished in or at the direction of such a hospital or clinic that was not operated by such Service, tribe, or organization.

"(B) Payment shall not be made for services under subparagraph (A) to the extent that payment is otherwise made for such services under this title.

"(2) The services described in this paragraph are the following:

"(A) Services for which payment is made under section 1848.

"(B) Services furnished by a practitioner described in section 1842(b)(18)(C) for which payment under part B is made under a fee schedule.

"(C) Services furnished by a physical therapist or occupational therapist as described in section 1861(p) for which payment under part B is made under a fee schedule.

"(3) Subsection (c) shall not apply to payments made under this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) COVERAGE AMENDMENT.—Section 1862(a)(3) (42 U.S.C. 1395y(a)(3)) is amended—

(A) by striking the second comma after "1861(aa)(1)"; and

(B) by inserting "in the case of services for which payment may be made under section 1880(e)," after "as defined in section 1861(aa)(3),".

(2) DIRECT PAYMENT AMENDMENT.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (F)" and inserting "(F)"; and

(B) by inserting before the period the following: ", and (G) in the case of services in a hospital or clinic to which section 1880(e) applies, payment shall be made to such hospital or clinic".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 2001.

SEC. 433. GAO STUDY ON COVERAGE OF SURGICAL FIRST ASSISTING SERVICES OF CERTIFIED REGISTERED NURSE FIRST ASSISTANTS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the effect on the medicare program under title XVIII of the Social Security Act and on medicare beneficiaries of coverage under the program of surgical first assisting services of certified registered nurse first assistants. The Comptroller General shall consider the following when conducting the study:

(1) Any impact on the quality of care furnished to medicare beneficiaries by reason of such coverage.

(2) Appropriate education and training requirements for certified registered nurse first assistants who furnish such first assisting services.

(3) Appropriate rates of payment under the program to such certified registered nurse first assistants for furnishing such services, taking into account the costs of compensation, overhead, and supervision attributable to certified registered nurse first assistants.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a).

SEC. 434. MEDPAC STUDY AND REPORT ON MEDICARE REIMBURSEMENT FOR SERVICES PROVIDED BY CERTAIN PROVIDERS.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on the appropriateness of the current payment rates under the medicare program under title XVIII of the Social Security Act for services provided by a—

(1) certified nurse-midwife (as defined in subsection (gg)(2) of section 1861 of such Act (42 U.S.C. 1395x));

(2) physician assistant (as defined in subsection (aa)(5)(A) of such section);

(3) nurse practitioner (as defined in such subsection); and

(4) clinical nurse specialist (as defined in subsection (aa)(5)(B) of such section).

The study shall separately examine the appropriateness of such payment rates for orthopedic physician assistants, taking into consideration the requirements for accreditation, training, and education.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a), together with any recommendations for legislation that the Commission determines to be appropriate as a result of such study.

SEC. 435. MEDPAC STUDY AND REPORT ON MEDICARE COVERAGE OF SERVICES PROVIDED BY CERTAIN NONPHYSICIAN PROVIDERS.

(a) STUDY.—

(1) IN GENERAL.—The Medicare Payment Advisory Commission shall conduct a study to determine the appropriateness of providing coverage under the medicare program under title XVIII of the Social Security Act for services provided by a—

(A) surgical technologist;

(B) marriage counselor;

(C) marriage and family therapist;

(D) pastoral care counselor; and

(E) licensed professional counselor of mental health.

(2) COSTS TO PROGRAM.—The study shall consider the short-term and long-term benefits, and costs to the medicare program, of providing the coverage described in paragraph (1).

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a), together with any recommendations for legislation that the Commission determines to be appropriate as a result of such study.

SEC. 436. GAO STUDY AND REPORT ON THE COSTS OF EMERGENCY AND MEDICAL TRANSPORTATION SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the costs of providing emergency and medical transportation services across the range of acuity levels of conditions for which such transportation services are provided.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for any changes in methodology or payment level necessary to fairly compensate suppliers of emergency and medical transportation services and to ensure the access of beneficiaries under the medicare program under title XVIII of the Social Security Act.

SEC. 437. GAO STUDIES AND REPORTS ON MEDICARE PAYMENTS.

(a) GAO STUDY ON HCFA POST-PAYMENT AUDIT PROCESS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the post-payment audit process under the medicare program under title XVIII of the Social Security Act as such process applies to physicians, including the proper

level of resources that the Health Care Financing Administration should devote to educating physicians regarding—

(A) coding and billing;

(B) documentation requirements; and

(C) the calculation of overpayments.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) together with specific recommendations for changes or improvements in the post-payment audit process described in such paragraph.

(b) GAO STUDY ON ADMINISTRATION AND OVERSIGHT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the aggregate effects of regulatory, audit, oversight, and paperwork burdens on physicians and other health care providers participating in the medicare program under title XVIII of the Social Security Act.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations regarding any area in which—

(A) a reduction in paperwork, an ease of administration, or an appropriate change in oversight and review may be accomplished; or

(B) additional payments or education are needed to assist physicians and other health care providers in understanding and complying with any legal or regulatory requirements.

SEC. 438. MEDPAC STUDY ON ACCESS TO OUTPATIENT PAIN MANAGEMENT SERVICES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on the barriers to coverage and payment for outpatient interventional pain medicine procedures under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(1) the specific barriers imposed under the medicare program on the provision of pain management procedures in hospital outpatient departments, ambulatory surgery centers, and physicians' offices; and

(2) the consistency of medicare payment policies for pain management procedures in those different settings.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study.

TITLE V—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 501. ONE-YEAR ADDITIONAL DELAY IN APPLICATION OF 15 PERCENT REDUCTION ON PAYMENT LIMITS FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1895(b)(3)(A)(i) (42 U.S.C. 1395fff(b)(3)(A)(i)) is amended—

(1) by redesignating subclause (II) as subclause (III);

(2) in subclause (III), as redesignated, by striking "described in subclause (I)" and inserting "described in subclause (II)"; and

(3) by inserting after subclause (I) the following new subclause:

"(II) For the 12-month period beginning after the period described in subclause (I), such amount (or amounts) shall be equal to the amount (or amounts) determined under subclause (I), updated under subparagraph (B).".

(b) CHANGE IN REPORT.—Section 302(c) of BBRA (113 Stat. 1501A–360) is amended—

(1) by striking "Not later than" and all that follows through "(42 U.S.C. 1395fff)" and inserting "Not later than April 1, 2002"; and

(2) by striking "Secretary" and inserting "Comptroller General of the United States".

(c) CASE MIX ADJUSTMENT CORRECTIONS.—

(1) IN GENERAL.—Section 1895(b)(3)(B) (42 U.S.C. 1395fff(b)(3)(B)) is amended by adding at the end the following new clause:

"(iv) ADJUSTMENT FOR CASE MIX CHANGES.—Insofar as the Secretary determines that the adjustments under paragraph (4)(A)(i) for a previous fiscal year (or estimates that such adjustments for a future fiscal year) did (or are likely to) result in a change in aggregate payments under this subsection during the fiscal year that are a result of changes in the coding or classification of different units of services that do not reflect real changes in case mix, the Secretary may adjust the standard prospective payment amount (or amounts) under paragraph (3) for subsequent fiscal years so as to eliminate the effect of such coding or classification changes.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to episodes concluding on or after October 1, 2001.

SEC. 502. RESTORATION OF FULL HOME HEALTH MARKET BASKET UPDATE FOR HOME HEALTH SERVICES FOR FISCAL YEAR 2001.

(a) IN GENERAL.—Section 1861(v)(1)(L)(x) (42 U.S.C. 1395x(v)(1)(L)(x)) is amended—

(1) by striking "2001,"; and

(2) by adding at the end the following: "With respect to cost reporting periods beginning during fiscal year 2001, the update to any limit under this subparagraph shall be the home health market basket index.".

(b) SPECIAL RULE FOR PAYMENT FOR FISCAL YEAR 2001 BASED ON ADJUSTED PROSPECTIVE PAYMENT AMOUNTS.—

(1) IN GENERAL.—Notwithstanding the amendments made by subsection (a), for purposes of making payments under section 1895(b) of the Social Security Act (42 U.S.C. 1395fff(b)) for home health services furnished during fiscal year 2001, the Secretary of Health and Human Services shall—

(A) with respect to episodes and visits ending on or after October 1, 2000, and before April 1, 2001, use the final standardized and budget neutral prospective payment amounts for 60-day episodes and standardized average per visit amounts for fiscal year 2001 as published by the Secretary in the Federal Register on July 3, 2000 (65 Fed. Reg. 41128–41214); and

(B) with respect to episodes and visits ending on or after April 1, 2001, and before October 1, 2001, use such amounts increased by 2.2 percent.

(2) NO EFFECT ON OTHER PAYMENTS OR DETERMINATIONS.—The Secretary shall not take the provisions of paragraph (1) into account for purposes of payments, determinations, or budget neutrality adjustments under section 1895 of the Social Security Act.

SEC. 503. TEMPORARY TWO-MONTH PERIODIC INTERIM PAYMENT.

(a) IN GENERAL.—Notwithstanding the amendments made by section 4603(b) of BBA (42 U.S.C. 1395fff note), in the case of a home health agency that was receiving periodic interim payments under section 1815(e)(2) of the Social Security Act (42 U.S.C. 1395g(e)(2)) as of September 30, 2000, and that is not described in subsection (b), the Secretary of Health and Human Services shall, as soon as practicable, make a single periodic interim payment to such agency in an amount equal to four times the last full fortnightly periodic interim payment made to such agency under the payment system in effect prior to the implementation of the prospective payment system under section 1895(b) of such Act (42 U.S.C. 1395fff(b)). Such amount of such periodic interim payment shall be included in the tentative settlement of the last cost report for the home health agency under the payment system in effect prior to the implementation of such prospective payment system, regardless of the ending date of such cost report.

(b) EXCEPTIONS.—The Secretary shall not make an additional periodic interim payment under subsection (a) in the case of a home health agency (determined as of the day that such payment would otherwise be made) that—

(1) notifies the Secretary that such agency does not want to receive such payment;

(2) is not receiving payments pursuant to section 405.371 of title 42, Code of Federal Regulations;

(3) is excluded from the medicare program under title XI of the Social Security Act;

(4) no longer has a provider agreement under section 1866 of such Act (42 U.S.C. 1395cc);

(5) is no longer in business; or

(6) is subject to a court order providing for the withholding of medicare payments under title XVIII of such Act.

SEC. 504. USE OF TELEHEALTH IN DELIVERY OF HOME HEALTH SERVICES.

Section 1895 (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

"(e) CONSTRUCTION RELATED TO HOME HEALTH SERVICES.—

"(1) TELECOMMUNICATIONS.—Nothing in this section shall be construed as preventing a home health agency furnishing a home health unit of service for which payment is made under the prospective payment system established by this section for such units of service from furnishing services via a telecommunication system if such services—

"(A) do not substitute for in-person home health services ordered as part of a plan of care certified by a physician pursuant to section 1814(a)(2)(C) or 1835(a)(2)(A); and

"(B) are not considered a home health visit for purposes of eligibility or payment under this title.

"(2) PHYSICIAN CERTIFICATION.—Nothing in this section shall be construed as waiving the requirement for a physician certification under section 1814(a)(2)(C) or 1835(a)(2)(A) of such Act (42 U.S.C. 1395f(a)(2)(C), 1395n(a)(2)(A)) for the payment for home health services, whether or not furnished via a telecommunications system.".

SEC. 505. STUDY ON COSTS TO HOME HEALTH AGENCIES OF PURCHASING NONROUTINE MEDICAL SUPPLIES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on variations in prices paid by home health agencies furnishing home health services under the medicare program under title XVIII of the Social Security Act in purchasing nonroutine medical supplies, including ostomy supplies, and volumes of such supplies used, shall determine the effect (if any) of variations on prices and volumes in the provision of such services.

(b) REPORT.—Not later than August 15, 2001, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), and shall include in the report recommendations respecting whether payment for nonroutine medical supplies furnished in connection with home health services should be made separately from the prospective payment system for such services.

SEC. 506. TREATMENT OF BRANCH OFFICES; GAO STUDY ON SUPERVISION OF HOME HEALTH CARE PROVIDED IN ISOLATED RURAL AREAS.

(a) TREATMENT OF BRANCH OFFICES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in determining for purposes of title XVIII of the Social Security Act whether an office of a home health agency constitutes a branch office or a separate home health agency, neither the time nor distance between a parent office of the home health agency and a branch office shall be the sole determinant of a home health agency's branch office status.

(2) CONSIDERATION OF FORMS OF TECHNOLOGY IN DEFINITION OF SUPERVISION.—The Secretary of Health and Human Services may include forms of technology in determining what constitutes "supervision" for purposes of determining a home heath agency's branch office status under paragraph (1).

(b) GAO STUDY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the provision of adequate supervision to maintain quality of home health services delivered under the medicare program under title XVIII of the Social Security Act in isolated rural areas. The study shall evaluate the methods that home health agency branches and subunits use to maintain adequate supervision in the delivery of services to clients residing in those areas, how these methods of supervision compare to requirements that subunits independently meet medicare conditions of participation, and the resources utilized by subunits to meet such conditions.

(2) REPORT.—Not later than January 1, 2002, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations on whether exceptions are needed for subunits and branches of home health agencies under the medicare program to maintain access to the home health benefit or whether alternative policies should be developed to assure adequate supervision and access and recommendations on whether a national standard for supervision is appropriate.

SEC. 507. CLARIFICATION OF THE HOMEBOUND DEFINITION UNDER THE MEDICARE HOME HEALTH BENEFIT.

(a) CLARIFICATION.—

(1) IN GENERAL.—Sections 1814(a) and 1835(a) (42 U.S.C. 1395f(a) and 1395n(a)) are each amended—

(A) in the last sentence, by striking ", and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment"; and

(B) by adding at the end the following new sentences: "Any absence of an individual from the home attributable to the need to receive health care treatment, including regular absences for the purpose of participating in therapeutic, psychosocial, or medical treatment in an adult day-care program that is licensed or certified by a State, or accredited, to furnish adult day-care services in the State shall not disqualify an individual from being considered to be 'confined to his home'. Any other absence of an individual from the home shall not so disqualify an individual if the absence is of infrequent or of relatively short duration. For purposes of the preceding sentence, any absence for the purpose of attending a religious service shall be deemed to be an absence of infrequent or short duration.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to home health services furnished on or after the date of the enactment of this Act.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct an evaluation of the effect of the amendment on the cost of and access to home health services under the medicare program under title XVIII of the Social Security Act.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit

to Congress a report on the study conducted under paragraph (1).

SEC. 508. TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) 24-MONTH INCREASE BEGINNING APRIL 1, 2001.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))) on or after April 1, 2001, and before April 1, 2003, the Secretary of Health and Human Services shall increase the payment amount otherwise made under section 1895 of such Act (42 U.S.C. 1395fff) for such services by 10 percent.

(b) WAIVING BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under section 1895 of the Social Security Act (42 U.S.C. 1395fff) applicable to home health services furnished during a period to offset the increase in payments resulting from the application of subsection (a).

Subtitle B—Direct Graduate Medical Education

SEC. 511. INCREASE IN FLOOR FOR DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS.

Section 1886(h)(2)(D)(iii) (42 U.S.C. 1395ww(h)(2)(D)(iii)) is amended—

(1) in the heading, by striking "IN FISCAL YEAR 2001 AT 70 PERCENT OF" and inserting "FOR"; and

(2) by inserting after "70 percent" the following: ", and for the cost reporting period beginning during fiscal year 2002 shall not be less than 85 percent,".

SEC. 512. CHANGE IN DISTRIBUTION FORMULA FOR MEDICARE+CHOICE-RELATED NURSING AND ALLIED HEALTH EDUCATION COSTS.

(a) IN GENERAL.—Section 1886(l)(2)(C) (42 U.S.C. 1395ww(l)(2)(C)) is amended by striking all that follows "multiplied by" and inserting the following: "the ratio of—

"(i) the product of (I) the Secretary's estimate of the ratio of the amount of payments made under section 1861(v) to the hospital for nursing and allied health education activities for the hospital's cost reporting period ending in the second preceding fiscal year, to the hospital's total inpatient days for such period, and (II) the total number of inpatient days (as established by the Secretary) for such period which are attributable to services furnished to individuals who are enrolled under a risk sharing contract with an eligible organization under section 1876 and who are entitled to benefits under part A or who are enrolled with a Medicare+Choice organization under part C; to

"(ii) the sum of the products determined under clause (i) for such cost reporting periods.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to portions of cost reporting periods occurring on or after January 1, 2001.

Subtitle C—Changes in Medicare Coverage and Appeals Process

SEC. 521. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) CONDUCT OF RECONSIDERATIONS OF DETERMINATIONS BY INDEPENDENT CONTRACTORS.—Section 1869 (42 U.S.C. 1395ff) is amended to read as follows:

"DETERMINATIONS; APPEALS

"SEC. 1869. (a) INITIAL DETERMINATIONS.—

"(1) PROMULGATIONS OF REGULATIONS.—The Secretary shall promulgate regulations and make initial determinations with respect to benefits under part A or part B in accordance with those regulations for the following:

"(A) The initial determination of whether an individual is entitled to benefits under such parts.

"(B) The initial determination of the amount of benefits available to the individual under such parts.

"(C) Any other initial determination with respect to a claim for benefits under such parts, including an initial determination by the Secretary that payment may not be made, or may no longer be made, for an item or service under such parts, an initial determination made by a utilization and quality control peer review organization under section 1154(a)(2), and an initial determination made by an entity pursuant to a contract (other than a contract under section 1852) with the Secretary to administer provisions of this title or title XI.

"(2) DEADLINES FOR MAKING INITIAL DETERMINATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), in promulgating regulations under paragraph (1), initial determinations shall be concluded by not later than the 45-day period beginning on the date the fiscal intermediary or the carrier, as the case may be, receives a claim for benefits from an individual as described in paragraph (1). Notice of such determination shall be mailed to the individual filing the claim before the conclusion of such 45-day period.

"(B) CLEAN CLAIMS.—Subparagraph (A) shall not apply with respect to any claim that is subject to the requirements of section 1816(c)(2) or 1842(c)(2).

"(3) REDETERMINATIONS.—

"(A) IN GENERAL.—In promulgating regulations under paragraph (1) with respect to initial determinations, such regulations shall provide for a fiscal intermediary or a carrier to make a redetermination with respect to a claim for benefits that is denied in whole or in part.

"(B) LIMITATIONS.—

"(i) APPEAL RIGHTS.—No initial determination may be reconsidered or appealed under subsection (b) unless

the fiscal intermediary or carrier has made a redetermination of that initial determination under this paragraph.

"(ii) DECISIONMAKER.—No redetermination may be made by any individual involved in the initial determination.

"(C) DEADLINES.—

"(i) FILING FOR REDETERMINATION.—A redetermination under subparagraph (A) shall be available only if notice is filed with the Secretary to request the redetermination by not later than the end of the 120-day period beginning on the date the individual receives notice of the initial determination under paragraph (2).

"(ii) CONCLUDING REDETERMINATIONS.—Redeterminations shall be concluded by not later than the 30-day period beginning on the date the fiscal intermediary or the carrier, as the case may be, receives a request for a redetermination. Notice of such determination shall be mailed to the individual filing the claim before the conclusion of such 30-day period.

"(D) CONSTRUCTION.—For purposes of the succeeding provisions of this section a redetermination under this paragraph shall be considered to be part of the initial determination.

"(b) APPEAL RIGHTS.—

"(1) IN GENERAL.—

"(A) RECONSIDERATION OF INITIAL DETERMINATION.—Subject to subparagraph (D), any individual dissatisfied with any initial determination under subsection (a)(1) shall be entitled to reconsideration of the determination, and, subject to subparagraphs (D) and (E), a hearing thereon by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). For purposes of the preceding sentence, any reference to the 'Commissioner of Social Security' or the 'Social Security Administration' in subsection (g) or (l) of section 205 shall be considered a reference to the 'Secretary' or the 'Department of Health and Human Services', respectively.

"(B) REPRESENTATION BY PROVIDER OR SUPPLIER.—

"(i) IN GENERAL.—Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this section by a person that furnishes or supplies the individual, directly or indirectly, with services or items, solely on the basis that the person furnishes or supplies the individual with such a service or item.

"(ii) MANDATORY WAIVER OF RIGHT TO PAYMENT FROM BENEFICIARY.—Any person that furnishes services or items to an individual may not represent an individual under this section with respect to the issue described in section 1879(a)(2) unless the person has waived any rights for payment from the beneficiary with respect to the services or items involved in the appeal.

"(iii) PROHIBITION ON PAYMENT FOR REPRESENTATION.—If a person furnishes services or items to an individual and represents the individual under this section, the person may not impose any financial liability on such individual in connection with such representation.

"(iv) REQUIREMENTS FOR REPRESENTATIVES OF A BENEFICIARY.—The provisions of section 205(j) and of section 206 (other than subsection (a)(4) of such section) regarding representation of claimants shall apply to representation of an individual with respect to appeals under this section in the same manner as they apply to representation of an individual under those sections.

"(C) SUCCESSION OF RIGHTS IN CASES OF ASSIGNMENT.—The right of an individual to an appeal under this section with respect to an item or service may be assigned to the provider of services or supplier of the item or service upon the written consent of such individual using a standard form established by the Secretary for such an assignment.

"(D) TIME LIMITS FOR FILING APPEALS.—

"(i) RECONSIDERATIONS.—Reconsideration under subparagraph (A) shall be available only if the individual described in subparagraph (A) files notice with the Secretary to request reconsideration by not later than the end of the 180-day period beginning on the date the individual receives notice of the redetermination under subsection (a)(3), or within such additional time as the Secretary may allow.

"(ii) HEARINGS CONDUCTED BY THE SECRETARY.—The Secretary shall establish in regulations time limits for the filing of a request for a hearing by the Secretary in accordance with provisions in sections 205 and 206.

"(E) AMOUNTS IN CONTROVERSY.—

"(i) IN GENERAL.—A hearing (by the Secretary) shall not be available to an individual under this section if the amount in controversy is less than $100, and judicial review shall not be available to the individual if the amount in controversy is less than $1,000.

"(ii) AGGREGATION OF CLAIMS.—In determining the amount in controversy, the Secretary, under regulations, shall allow two or more appeals to be aggregated if the appeals involve—

"(I) the delivery of similar or related services to the same individual by one or more providers of services or suppliers, or

"(II) common issues of law and fact arising from services furnished to two or more individuals by one or more providers of services or suppliers.

"(F) EXPEDITED PROCEEDINGS.—

"(i) EXPEDITED DETERMINATION.—In the case of an individual who has received notice from a provider of services that such provider plans—

"(I) to terminate services provided to an individual and a physician certifies that failure to continue the provision of such services is likely

to place the individual's health at significant risk, or

"(II) to discharge the individual from the provider of services,

the individual may request, in writing or orally, an expedited determination or an expedited reconsideration of an initial determination made under subsection (a)(1), as the case may be, and the Secretary shall provide such expedited determination or expedited reconsideration.

"(ii) EXPEDITED HEARING.—In a hearing by the Secretary under this section, in which the moving party alleges that no material issues of fact are in dispute, the Secretary shall make an expedited determination as to whether any such facts are in dispute and, if not, shall render a decision expeditiously.

"(G) REOPENING AND REVISION OF DETERMINATIONS.—The Secretary may reopen or revise any initial determination or reconsidered determination described in this subsection under guidelines established by the Secretary in regulations.

"(c) CONDUCT OF RECONSIDERATIONS BY INDEPENDENT CONTRACTORS.—

"(1) IN GENERAL.—The Secretary shall enter into contracts with qualified independent contractors to conduct reconsiderations of initial determinations made under subparagraphs (B) and (C) of subsection (a)(1). Contracts shall be for an initial term of three years and shall be renewable on a triennial basis thereafter.

"(2) QUALIFIED INDEPENDENT CONTRACTOR.—For purposes of this subsection, the term 'qualified independent contractor' means an entity or organization that is independent of any organization under contract with the Secretary that makes initial determinations under subsection (a)(1), and that meets the requirements established by the Secretary consistent with paragraph (3).

"(3) REQUIREMENTS.—Any qualified independent contractor entering into a contract with the Secretary under this subsection shall meet all of the following requirements:

"(A) IN GENERAL.—The qualified independent contractor shall perform such duties and functions and assume such responsibilities as may be required by the Secretary to carry out the provisions of this subsection, and shall have sufficient training and expertise in medical science and legal matters to make reconsiderations under this subsection.

"(B) RECONSIDERATIONS.—

"(i) IN GENERAL.—The qualified independent contractor shall review initial determinations. Where an initial determination is made with respect to whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury (under section 1862(a)(1)(A)), such review shall include consideration of the facts and circumstances of the initial determination by a panel of physicians or other appropriate health care professionals and any decisions with respect to the reconsideration shall be based on

applicable information, including clinical experience and medical, technical, and scientific evidence.

"(ii) EFFECT OF NATIONAL AND LOCAL COVERAGE DETERMINATIONS.—

"(I) NATIONAL COVERAGE DETERMINATIONS.—If the Secretary has made a national coverage determination pursuant to the requirements established under the third sentence of section 1862(a), such determination shall be binding on the qualified independent contractor in making a decision with respect to a reconsideration under this section.

"(II) LOCAL COVERAGE DETERMINATIONS.—If the Secretary has made a local coverage determination, such determination shall not be binding on the qualified independent contractor in making a decision with respect to a reconsideration under this section. Notwithstanding the previous sentence, the qualified independent contractor shall consider the local coverage determination in making such decision.

"(III) ABSENCE OF NATIONAL OR LOCAL COVERAGE DETERMINATION.—In the absence of such a national coverage determination or local coverage determination, the qualified independent contractor shall make a decision with respect to the reconsideration based on applicable information, including clinical experience and medical, technical, and scientific evidence.

"(C) DEADLINES FOR DECISIONS.—

"(i) RECONSIDERATIONS.—Except as provided in clauses (iii) and (iv), the qualified independent contractor shall conduct and conclude a reconsideration under subparagraph (B), and mail the notice of the decision with respect to the reconsideration by not later than the end of the 30-day period beginning on the date a request for reconsideration has been timely filed.

"(ii) CONSEQUENCES OF FAILURE TO MEET DEADLINE.—In the case of a failure by the qualified independent contractor to mail the notice of the decision by the end of the period described in clause (i) or to provide notice by the end of the period described in clause (iii), as the case may be, the party requesting the reconsideration or appeal may request a hearing before the Secretary, notwithstanding any requirements for a reconsidered determination for purposes of the party's right to such hearing.

"(iii) EXPEDITED RECONSIDERATIONS.—The qualified independent contractor shall perform an expedited reconsideration under subsection (b)(1)(F) as follows:

"(I) DEADLINE FOR DECISION.—Notwithstanding section 216(j) and subject to clause (iv), not later than the end of the 72-hour period beginning on the date the qualified independent contractor has received a request for such reconsideration and has received such medical or other records needed for such reconsideration, the qualified

independent contractor shall provide notice (by telephone and in writing) to the individual and the provider of services and attending physician of the individual of the results of the reconsideration. Such reconsideration shall be conducted regardless of whether the provider of services or supplier will charge the individual for continued services or whether the individual will be liable for payment for such continued services.

"(II) CONSULTATION WITH BENEFICIARY.—In such reconsideration, the qualified independent contractor shall solicit the views of the individual involved.

"(III) SPECIAL RULE FOR HOSPITAL DISCHARGES.—A reconsideration of a discharge from a hospital shall be conducted under this clause in accordance with the provisions of paragraphs (2), (3), and (4) of section 1154(e) as in effect on the date that precedes the date of the enactment of this subparagraph.

"(iv) EXTENSION.—An individual requesting a reconsideration under this subparagraph may be granted such additional time as the individual specifies (not to exceed 14 days) for the qualified independent contractor to conclude the reconsideration. The individual may request such additional time orally or in writing.

"(D) LIMITATION ON INDIVIDUAL REVIEWING DETERMINATIONS.—

"(i) PHYSICIANS AND HEALTH CARE PROFESSIONAL.—No physician or health care professional under the employ of a qualified independent contractor may review—

"(I) determinations regarding health care services furnished to a patient if the physician or health care professional was directly responsible for furnishing such services; or

"(II) determinations regarding health care services provided in or by an institution, organization, or agency, if the physician or any member of the family of the physician or health care professional has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

"(ii) FAMILY DESCRIBED.—For purposes of this paragraph, the family of a physician or health care professional includes the spouse (other than a spouse who is legally separated from the physician or health care professional under a decree of divorce or separate maintenance), children (including stepchildren and legally adopted children), grandchildren, parents, and grandparents of the physician or health care professional.

"(E) EXPLANATION OF DECISION.—Any decision with respect to a reconsideration of a qualified independent contractor shall be in writing, and shall include a detailed explanation of the decision as well as a discussion of the

pertinent facts and applicable regulations applied in making such decision, and in the case of a determination of whether an item or service is reasonable and necessary for the diagnosis or treatment of illness or injury (under section 1862(a)(1)(A)) an explanation of the medical and scientific rationale for the decision.

"(F) NOTICE REQUIREMENTS.—Whenever a qualified independent contractor makes a decision with respect to a reconsideration under this subsection, the qualified independent contractor shall promptly notify the entity responsible for the payment of claims under part A or part B of such decision.

"(G) DISSEMINATION OF DECISIONS ON RECONSIDERATIONS.—Each qualified independent contractor shall make available all decisions with respect to reconsiderations of such qualified independent contractors to fiscal intermediaries (under section 1816), carriers (under section 1842), peer review organizations (under part B of title XI), Medicare+Choice organizations offering Medicare+Choice plans under part C, other entities under contract with the Secretary to make initial determinations under part A or part B or title XI, and to the public. The Secretary shall establish a methodology under which qualified independent contractors shall carry out this subparagraph.

"(H) ENSURING CONSISTENCY IN DECISIONS.—Each qualified independent contractor shall monitor its decisions with respect to reconsiderations to ensure the consistency of such decisions with respect to requests for reconsideration of similar or related matters.

"(I) DATA COLLECTION.—

"(i) IN GENERAL.—Consistent with the requirements of clause (ii), a qualified independent contractor shall collect such information relevant to its functions, and keep and maintain such records in such form and manner as the Secretary may require to carry out the purposes of this section and shall permit access to and use of any such information and records as the Secretary may require for such purposes.

"(ii) TYPE OF DATA COLLECTED.—Each qualified independent contractor shall keep accurate records of each decision made, consistent with standards established by the Secretary for such purpose. Such records shall be maintained in an electronic database in a manner that provides for identification of the following:

"(I) Specific claims that give rise to appeals.

"(II) Situations suggesting the need for increased education for providers of services, physicians, or suppliers.

"(III) Situations suggesting the need for changes in national or local coverage policy.

"(IV) Situations suggesting the need for changes in local medical review policies.

"(iii) ANNUAL REPORTING.—Each qualified independent contractor shall submit annually to the Secretary (or otherwise as the Secretary may request)

records maintained under this paragraph for the previous year.

"(J) HEARINGS BY THE SECRETARY.—The qualified independent contractor shall (i) prepare such information as is required for an appeal of a decision of the contractor with respect to a reconsideration to the Secretary for a hearing, including as necessary, explanations of issues involved in the decision and relevant policies, and (ii) participate in such hearings as required by the Secretary.

"(4) NUMBER OF QUALIFIED INDEPENDENT CONTRACTORS.—The Secretary shall enter into contracts with not fewer than 12 qualified independent contractors under this subsection.

"(5) LIMITATION ON QUALIFIED INDEPENDENT CONTRACTOR LIABILITY.—No qualified independent contractor having a contract with the Secretary under this subsection and no person who is employed by, or who has a fiduciary relationship with, any such qualified independent contractor or who furnishes professional services to such qualified independent contractor, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this subsection or to a valid contract entered into under this subsection, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided due care was exercised in the performance of such duty, function, or activity.

"(d) DEADLINES FOR HEARINGS BY THE SECRETARY.—

"(1) HEARING BY ADMINISTRATIVE LAW JUDGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an administrative law judge shall conduct and conclude a hearing on a decision of a qualified independent contractor under subsection (c) and render a decision on such hearing by not later than the end of the 90-day period beginning on the date a request for hearing has been timely filed.

"(B) WAIVER OF DEADLINE BY PARTY SEEKING HEARING.—The 90-day period under subparagraph (A) shall not apply in the case of a motion or stipulation by the party requesting the hearing to waive such period.

"(2) DEPARTMENTAL APPEALS BOARD REVIEW.—

"(A) IN GENERAL.—The Departmental Appeals Board of the Department of Health and Human Services shall conduct and conclude a review of the decision on a hearing described in paragraph (1) and make a decision or remand the case to the administrative law judge for reconsideration by not later than the end of the 90-day period beginning on the date a request for review has been timely filed.

"(B) DAB HEARING PROCEDURE.—In reviewing a decision on a hearing under this paragraph, the Departmental Appeals Board shall review the case de novo.

"(3) CONSEQUENCES OF FAILURE TO MEET DEADLINES.—

"(A) HEARING BY ADMINISTRATIVE LAW JUDGE.—In the case of a failure by an administrative law judge to render a decision by the end of the period described in paragraph (1), the party requesting the hearing may request a review by the Departmental Appeals Board of the Department of Health and Human Services, notwithstanding any

requirements for a hearing for purposes of the party's right to such a review.

"(B) DEPARTMENTAL APPEALS BOARD REVIEW.—In the case of a failure by the Departmental Appeals Board to render a decision by the end of the period described in paragraph (2), the party requesting the hearing may seek judicial review, notwithstanding any requirements for a hearing for purposes of the party's right to such judicial review.

"(e) ADMINISTRATIVE PROVISIONS.—

"(1) LIMITATION ON REVIEW OF CERTAIN REGULATIONS.—A regulation or instruction that relates to a method for determining the amount of payment under part B and that was initially issued before January 1, 1981, shall not be subject to judicial review.

"(2) OUTREACH.—The Secretary shall perform such outreach activities as are necessary to inform individuals entitled to benefits under this title and providers of services and suppliers with respect to their rights of, and the process for, appeals made under this section. The Secretary shall use the toll-free telephone number maintained by the Secretary under section 1804(b) to provide information regarding appeal rights and respond to inquiries regarding the status of appeals.

"(3) CONTINUING EDUCATION REQUIREMENT FOR QUALIFIED INDEPENDENT CONTRACTORS AND ADMINISTRATIVE LAW JUDGES.—The Secretary shall provide to each qualified independent contractor, and, in consultation with the Commissioner of Social Security, to administrative law judges that decide appeals of reconsiderations of initial determinations or other decisions or determinations under this section, such continuing education with respect to coverage of items and services under this title or policies of the Secretary with respect to part B of title XI as is necessary for such qualified independent contractors and administrative law judges to make informed decisions with respect to appeals.

"(4) REPORTS.—

"(A) ANNUAL REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report describing the number of appeals for the previous year, identifying issues that require administrative or legislative actions, and including any recommendations of the Secretary with respect to such actions. The Secretary shall include in such report an analysis of determinations by qualified independent contractors with respect to inconsistent decisions and an analysis of the causes of any such inconsistencies.

"(B) SURVEY.—Not less frequently than every 5 years, the Secretary shall conduct a survey of a valid sample of individuals entitled to benefits under this title who have filed appeals of determinations under this section, providers of services, and suppliers to determine the satisfaction of such individuals or entities with the process for appeals of determinations provided for under this section and education and training provided by the Secretary with respect to that process. The Secretary shall submit to Congress a report describing the results of the survey, and shall

include any recommendations for administrative or legislative actions that the Secretary determines appropriate.".

(b) APPLICABILITY OF REQUIREMENTS AND LIMITATIONS ON LIABILITY OF QUALIFIED INDEPENDENT CONTRACTORS TO MEDICARE+CHOICE INDEPENDENT APPEALS CONTRACTORS.—Section 1852(g)(4) (42 U.S.C. 1395w–22(g)(4)) is amended by adding at the end the following: "The provisions of section 1869(c)(5) shall apply to independent outside entities under contract with the Secretary under this paragraph.".

(c) CONFORMING AMENDMENT.—Section 1154(e) (42 U.S.C. 1320c–3(e)) is amended by striking paragraphs (2), (3), and (4).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to initial determinations made on or after October 1, 2002.

SEC. 522. REVISIONS TO MEDICARE COVERAGE PROCESS.

(a) REVIEW OF DETERMINATIONS.—Section 1869 (42 U.S.C. 1395ff), as amended by section 521, is further amended by adding at the end the following new subsection:

"(f) REVIEW OF COVERAGE DETERMINATIONS.—

"(1) NATIONAL COVERAGE DETERMINATIONS.—

"(A) IN GENERAL.—Review of any national coverage determination shall be subject to the following limitations:

"(i) Such a determination shall not be reviewed by any administrative law judge.

"(ii) Such a determination shall not be held unlawful or set aside on the ground that a requirement of section 553 of title 5, United States Code, or section 1871(b) of this title, relating to publication in the Federal Register or opportunity for public comment, was not satisfied.

"(iii) Upon the filing of a complaint by an aggrieved party, such a determination shall be reviewed by the Departmental Appeals Board of the Department of Health and Human Services. In conducting such a review, the Departmental Appeals Board—

"(I) shall review the record and shall permit discovery and the taking of evidence to evaluate the reasonableness of the determination, if the Board determines that the record is incomplete or lacks adequate information to support the validity of the determination;

"(II) may, as appropriate, consult with appropriate scientific and clinical experts; and

"(III) shall defer only to the reasonable findings of fact, reasonable interpretations of law, and reasonable applications of fact to law by the Secretary.

"(iv) The Secretary shall implement a decision of the Departmental Appeals Board within 30 days of receipt of such decision.

"(v) A decision of the Departmental Appeals Board constitutes a final agency action and is subject to judicial review.

"(B) DEFINITION OF NATIONAL COVERAGE DETERMINATION.—For purposes of this section, the term 'national coverage determination' means a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under this title, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title or a determination with respect to the amount of payment made for a particular item or service so covered.

"(2) LOCAL COVERAGE DETERMINATION.—

"(A) IN GENERAL.—Review of any local coverage determination shall be subject to the following limitations:

"(i) Upon the filing of a complaint by an aggrieved party, such a determination shall be reviewed by an administrative law judge of the Social Security Administration. The administrative law judge—

"(I) shall review the record and shall permit discovery and the taking of evidence to evaluate the reasonableness of the determination, if the administrative law judge determines that the record is incomplete or lacks adequate information to support the validity of the determination;

"(II) may, as appropriate, consult with appropriate scientific and clinical experts; and

"(III) shall defer only to the reasonable findings of fact, reasonable interpretations of law, and reasonable applications of fact to law by the Secretary.

"(ii) Upon the filing of a complaint by an aggrieved party, a decision of an administrative law judge under clause (i) shall be reviewed by the Departmental Appeals Board of the Department of Health and Human Services.

"(iii) The Secretary shall implement a decision of the administrative law judge or the Departmental Appeals Board within 30 days of receipt of such decision.

"(iv) A decision of the Departmental Appeals Board constitutes a final agency action and is subject to judicial review.

"(B) DEFINITION OF LOCAL COVERAGE DETERMINATION.—For purposes of this section, the term 'local coverage determination' means a determination by a fiscal intermediary or a carrier under part A or part B, as applicable, respecting whether or not a particular item or service is covered on an intermediary- or carrier-wide basis under such parts, in accordance with section 1862(a)(1)(A).

"(3) NO MATERIAL ISSUES OF FACT IN DISPUTE.—In the case of a determination that may otherwise be subject to review under paragraph (1)(A)(iii) or paragraph (2)(A)(i), where the moving party alleges that—

"(A) there are no material issues of fact in dispute, and

"(B) the only issue of law is the constitutionality of a provision of this title, or that a regulation, determination, or ruling by the Secretary is invalid,

the moving party may seek review by a court of competent jurisdiction without filing a complaint under such paragraph and without otherwise exhausting other administrative remedies.

"(4) PENDING NATIONAL COVERAGE DETERMINATIONS.—

"(A) IN GENERAL.—In the event the Secretary has not issued a national coverage or noncoverage determination with respect to a particular type or class of items or services, an aggrieved person (as described in paragraph (5)) may submit to the Secretary a request to make such a determination with respect to such items or services. By not later than the end of the 90-day period beginning on the date the Secretary receives such a request (notwithstanding the receipt by the Secretary of new evidence (if any) during such 90-day period), the Secretary shall take one of the following actions:

"(i) Issue a national coverage determination, with or without limitations.

"(ii) Issue a national noncoverage determination.

"(iii) Issue a determination that no national coverage or noncoverage determination is appropriate as of the end of such 90-day period with respect to national coverage of such items or services.

"(iv) Issue a notice that states that the Secretary has not completed a review of the request for a national coverage determination and that includes an identification of the remaining steps in the Secretary's review process and a deadline by which the Secretary will complete the review and take an action described in subclause (I), (II), or (III).

"(B) DEEMED ACTION BY THE SECRETARY.—In the case of an action described in clause (i)(IV), if the Secretary fails to take an action referred to in such clause by the deadline specified by the Secretary under such clause, then the Secretary is deemed to have taken an action described in clause (i)(III) as of the deadline.

"(C) EXPLANATION OF DETERMINATION.—When issuing a determination under clause (i), the Secretary shall include an explanation of the basis for the determination. An action taken under clause (i) (other than subclause (IV)) is deemed to be a national coverage determination for purposes of review under subparagraph (A).

"(5) STANDING.—An action under this subsection seeking review of a national coverage determination or local coverage determination may be initiated only by individuals entitled to benefits under part A, or enrolled under part B, or both, who are in need of the items or services that are the subject of the coverage determination.

"(6) PUBLICATION ON THE INTERNET OF DECISIONS OF HEARINGS OF THE SECRETARY.—Each decision of a hearing by the Secretary with respect to a national coverage determination shall be made public, and the Secretary shall publish each decision on the Medicare Internet site of the Department of Health and Human Services. The Secretary shall remove from such decision any information that would identify any individual, provider of services, or supplier.

"(7) ANNUAL REPORT ON NATIONAL COVERAGE DETERMINATIONS.—

"(A) IN GENERAL.—Not later than December 1 of each year, beginning in 2001, the Secretary shall submit to Congress a report that sets forth a detailed compilation of the actual time periods that were necessary to complete and fully implement national coverage determinations that were made in the previous fiscal year for items, services, or medical devices not previously covered as a benefit under this title, including, with respect to each new item, service, or medical device, a statement of the time taken by the Secretary to make and implement the necessary coverage, coding, and payment determinations, including the time taken to complete each significant step in the process of making and implementing such determinations.

"(B) PUBLICATION OF REPORTS ON THE INTERNET.—The Secretary shall publish each report submitted under clause (i) on the medicare Internet site of the Department of Health and Human Services.

"(8) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting administrative or judicial review pursuant to this section insofar as such review is explicitly prohibited or restricted under another provision of law.".

(b) ESTABLISHMENT OF A PROCESS FOR COVERAGE DETERMINATIONS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended by adding at the end the following new sentence: "In making a national coverage determination (as defined in paragraph (1)(B) of section 1869(f)) the Secretary shall ensure that the public is afforded notice and opportunity to comment prior to implementation by the Secretary of the determination; meetings of advisory committees established under section 1114(f) with respect to the determination are made on the record; in making the determination, the Secretary has considered applicable information (including clinical experience and medical, technical, and scientific evidence) with respect to the subject matter of the determination; and in the determination, provide a clear statement of the basis for the determination (including responses to comments received from the public), the assumptions underlying that basis, and make available to the public the data (other than proprietary data) considered in making the determination.".

(c) IMPROVEMENTS TO THE MEDICARE ADVISORY COMMITTEE PROCESS.—Section 1114 (42 U.S.C. 1314) is amended by adding at the end the following new subsection:

"(i)(1) Any advisory committee appointed under subsection (f) to advise the Secretary on matters relating to the interpretation, application, or implementation of section 1862(a)(1) shall assure the full participation of a nonvoting member in the deliberations of the advisory committee, and shall provide such nonvoting member access to all information and data made available to voting members of the advisory committee, other than information that—

"(A) is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section (relating to trade secrets); or

"(B) the Secretary determines would present a conflict of interest relating to such nonvoting member.

"(2) If an advisory committee described in paragraph (1) organizes into panels of experts according to types of items or services considered by the advisory committee, any such panel of experts may report any recommendation with respect to such items or services directly to the Secretary without the prior approval of the advisory committee or an executive committee thereof.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) a review of any national or local coverage determination filed,

(2) a request to make such a determination made, and

(3) a national coverage determination made,

on or after October 1, 2001.

Subtitle D—Improving Access to New Technologies

SEC. 531. REIMBURSEMENT IMPROVEMENTS FOR NEW CLINICAL LABORATORY TESTS AND DURABLE MEDICAL EQUIPMENT.

(a) PAYMENT RULE FOR NEW LABORATORY TESTS.—Section 1833(h)(4)(B)(viii) (42 U.S.C. 1395l(h)(4)(B)(viii)) is amended by inserting before the period at the end the following: "(or 100 percent of such median in the case of a clinical diagnostic laboratory test performed on or after January 1, 2001, that the Secretary determines is a new test for which no limitation amount has previously been established under this subparagraph)".

(b) ESTABLISHMENT OF CODING AND PAYMENT PROCEDURES FOR NEW CLINICAL DIAGNOSTIC LABORATORY TESTS AND OTHER ITEMS ON A FEE SCHEDULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish procedures for coding and payment determinations for the categories of new clinical diagnostic laboratory tests and new durable medical equipment under part B of title XVIII of the Social Security Act that permit public consultation in a manner consistent with the procedures established for implementing coding modifications for ICD–9–CM.

(c) REPORT ON PROCEDURES USED FOR ADVANCED, IMPROVED TECHNOLOGIES.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report that identifies the specific procedures used by the Secretary under part B of title XVIII of the Social Security Act to adjust payments for clinical diagnostic laboratory tests and durable medical equipment which are classified to existing codes where, because of an advance in technology with respect to the test or equipment, there has been a significant increase or decrease in the resources used in the test or in the manufacture of the equipment, and there has been a significant improvement in the performance of the test or equipment. The report shall include such recommendations for changes in law as may be necessary to assure fair and appropriate payment levels under such part for such improved tests and equipment as reflects increased costs necessary to produce improved results.

SEC. 532. RETENTION OF HCPCS LEVEL III CODES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall maintain and continue the use of level III codes of the HCPCS

coding system (as such system was in effect on August 16, 2000) through December 31, 2003, and shall make such codes available to the public.

(b) DEFINITION.—For purposes of this section, the term "HCPCS Level III codes" means the alphanumeric codes for local use under the Health Care Financing Administration Common Procedure Coding System (HCPCS).

SEC. 533. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) EXPEDITING RECOGNITION OF NEW TECHNOLOGIES INTO INPATIENT PPS CODING SYSTEM.—

(1) REPORT.—Not later than April 1, 2001, the Secretary of Health and Human Services shall submit to Congress a report on methods of expeditiously incorporating new medical services and technologies into the clinical coding system used with respect to payment for inpatient hospital services furnished under the medicare program under title XVIII of the Social Security Act, together with a detailed description of the Secretary's preferred methods to achieve this purpose.

(2) IMPLEMENTATION.—Not later than October 1, 2001, the Secretary shall implement the preferred methods described in the report transmitted pursuant to paragraph (1).

(b) ENSURING APPROPRIATE PAYMENTS FOR HOSPITALS INCORPORATING NEW MEDICAL SERVICES AND TECHNOLOGIES.—

(1) ESTABLISHMENT OF MECHANISM.—Section 1886(d)(5) (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraphs:

"(K)(i) Effective for discharges beginning on or after October 1, 2001, the Secretary shall establish a mechanism to recognize the costs of new medical services and technologies under the payment system established under this subsection. Such mechanism shall be established after notice and opportunity for public comment (in the publications required by subsection (e)(5) for a fiscal year or otherwise).

"(ii) The mechanism established pursuant to clause (i) shall—

"(I) apply to a new medical service or technology if, based on the estimated costs incurred with respect to discharges involving such service or technology, the DRG prospective payment rate otherwise applicable to such discharges under this subsection is inadequate;

"(II) provide for the collection of data with respect to the costs of a new medical service or technology described in subclause (I) for a period of not less than two years and not more than three years beginning on the date on which an inpatient hospital code is issued with respect to the service or technology;

"(III) subject to paragraph (4)(C)(iii), provide for additional payment to be made under this subsection with respect to discharges involving a new medical service or technology described in subclause (I) that occur during the period described in subclause (II) in an amount that adequately reflects the estimated average cost of such service or technology; and

"(IV) provide that discharges involving such a service or technology that occur after the close of the period described in subclause (II) will be classified within a new or existing

diagnosis-related group with a weighting factor under paragraph (4)(B) that is derived from cost data collected with respect to discharges occurring during such period.

"(iii) For purposes of clause (ii)(II), the term 'inpatient hospital code' means any code that is used with respect to inpatient hospital services for which payment may be made under this subsection and includes an alphanumeric code issued under the International Classification of Diseases, 9th Revision, Clinical Modification ('ICD–9–CM') and its subsequent revisions.

"(iv) For purposes of clause (ii)(III), the term 'additional payment' means, with respect to a discharge for a new medical service or technology described in clause (ii)(I), an amount that exceeds the prospective payment rate otherwise applicable under this subsection to discharges involving such service or technology that would be made but for this subparagraph.

"(v) The requirement under clause (ii)(III) for an additional payment may be satisfied by means of a new-technology group (described in subparagraph (L)), an add-on payment, a payment adjustment, or any other similar mechanism for increasing the amount otherwise payable with respect to a discharge under this subsection. The Secretary may not establish a separate fee schedule for such additional payment for such services and technologies, by utilizing a methodology established under subsection (a) or (h) of section 1834 to determine the amount of such additional payment, or by other similar mechanisms or methodologies.

"(vi) For purposes of this subparagraph and subparagraph (L), a medical service or technology will be considered a 'new medical service or technology' if the service or technology meets criteria established by the Secretary after notice and an opportunity for public comment.

"(L)(i) In establishing the mechanism under subparagraph (K), the Secretary may establish new-technology groups into which a new medical service or technology will be classified if, based on the estimated average costs incurred with respect to discharges involving such service or technology, the DRG prospective payment rate otherwise applicable to such discharges under this subsection is inadequate.

"(ii) Such groups—

"(I) shall not be based on the costs associated with a specific new medical service or technology; but

"(II) shall, in combination with the applicable standardized amounts and the weighting factors assigned to such groups under paragraph (4)(B), reflect such cost cohorts as the Secretary determines are appropriate for all new medical services and technologies that are likely to be provided as inpatient hospital services in a fiscal year.

"(iii) The methodology for classifying specific hospital discharges within a diagnosis-related group under paragraph (4)(A) or a new-technology group shall provide that a specific hospital discharge may not be classified within both a diagnosis-related group and a new-technology group.".

(2) PRIOR CONSULTATION.—The Secretary of Health and Human Services shall consult with groups representing hospitals, physicians, and manufacturers of new medical technologies before publishing the notice of proposed rulemaking required by section 1886(d)(5)(K)(i) of the Social Security Act (as added by paragraph (1)).

(3) CONFORMING AMENDMENT.—Section 1886(d)(4)(C)(i) (42 U.S.C. 1395ww(d)(4)(C)(i)) is amended by striking "technology," and inserting "technology (including a new medical service or technology under paragraph (5)(K)),".

Subtitle E—Other Provisions

SEC. 541. INCREASE IN REIMBURSEMENT FOR BAD DEBT.

Section 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii)—

(A) by striking "during a subsequent fiscal year" and inserting "during fiscal year 2000"; and

(B) by striking the period at the end and inserting ", and"; and

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

"(iv) for cost reporting periods beginning during a subsequent fiscal year, by 30 percent of such amount otherwise allowable.".

SEC. 542. TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

(a) IN GENERAL.—When an independent laboratory furnishes the technical component of a physician pathology service to a fee-for-service medicare beneficiary who is an inpatient or outpatient of a covered hospital, the Secretary of Health and Human Services shall treat such component as a service for which payment shall be made to the laboratory under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) and not as an inpatient hospital service for which payment is made to the hospital under section 1886(d) of such Act (42 U.S.C. 1395ww(d)) or as an outpatient hospital service for which payment is made to the hospital under section 1833(t) of such Act (42 U.S.C. 1395l(t)).

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

(1) COVERED HOSPITAL.—The term "covered hospital" means, with respect to an inpatient or an outpatient, a hospital that had an arrangement with an independent laboratory that was in effect as of July 22, 1999, under which a laboratory furnished the technical component of physician pathology services to fee-for-service medicare beneficiaries who were hospital inpatients or outpatients, respectively, and submitted claims for payment for such component to a medicare carrier (that has a contract with the Secretary under section 1842 of the Social Security Act, 42 U.S.C. 1395u) and not to such hospital.

(2) FEE-FOR-SERVICE MEDICARE BENEFICIARY.—The term "fee-for-service medicare beneficiary" means an individual who—

(A) is entitled to benefits under part A, or enrolled under part B, or both, of such title; and

(B) is not enrolled in any of the following:

(i) A Medicare+Choice plan under part C of such title.

(ii) A plan offered by an eligible organization under section 1876 of such Act (42 U.S.C. 1395mm).

(iii) A program of all-inclusive care for the elderly (PACE) under section 1894 of such Act (42 U.S.C. 1395eee).

(iv) A social health maintenance organization (SHMO) demonstration project established under section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203).

(c) EFFECTIVE DATE.—This section shall apply to services furnished during the 2-year period beginning on January 1, 2001.

(d) GAO REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the effects of the previous provisions of this section on hospitals and laboratories and access of fee-for-service medicare beneficiaries to the technical component of physician pathology services.

(2) REPORT.—Not later than April 1, 2002, the Comptroller General shall submit to Congress a report on such study. The report shall include recommendations about whether such provisions should be extended after the end of the period specified in subsection (c) for either or both inpatient and outpatient hospital services, and whether the provisions should be extended to other hospitals.

SEC. 543. EXTENSION OF ADVISORY OPINION AUTHORITY.

Section 1128D(b)(6) (42 U.S.C. 1320a–7d(b)(6)) is amended by striking "and before the date which is 4 years after such date of enactment".

SEC. 544. CHANGE IN ANNUAL MEDPAC REPORTING.

(a) REVISION OF DEADLINES FOR SUBMISSION OF REPORTS.—

(1) IN GENERAL.—Section 1805(b)(1)(D) (42 U.S.C. 1395b–6(b)(1)(D)) is amended by striking "June 1 of each year (beginning with 1998)," and inserting "June 15 of each year,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply beginning with 2001.

(b) REQUIREMENT FOR ON THE RECORD VOTES ON RECOMMENDATIONS.—Section 1805(b) (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

"(7) VOTING AND REPORTING REQUIREMENTS.—With respect to each recommendation contained in a report submitted under paragraph (1), each member of the Commission shall vote on the recommendation, and the Commission shall include, by member, the results of that vote in the report containing the recommendation.".

SEC. 545. DEVELOPMENT OF PATIENT ASSESSMENT INSTRUMENTS.

(a) DEVELOPMENT.—

(1) IN GENERAL.—Not later than January 1, 2005, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the development of standard instruments for the assessment of the health and functional status of patients, for whom items and services described in subsection (b) are furnished, and include in the report a recommendation on the use of such standard instruments for payment purposes.

(2) DESIGN FOR COMPARISON OF COMMON ELEMENTS.—The Secretary shall design such standard instruments in a manner such that—

(A) elements that are common to the items and services described in subsection (b) may be readily comparable and are statistically compatible;

(B) only elements necessary to meet program objectives are collected; and

(C) the standard instruments supersede any other assessment instrument used before that date.

(3) CONSULTATION.—In developing an assessment instrument under paragraph (1), the Secretary shall consult with the Medicare Payment Advisory Commission, the Agency for Healthcare Research and Quality, and qualified organizations representing providers of services and suppliers under title XVIII.

(b) DESCRIPTION OF SERVICES.—For purposes of subsection (a), items and services described in this subsection are those items and services furnished to individuals entitled to benefits under part A, or enrolled under part B, or both of title XVIII of the Social Security Act for which payment is made under such title, and include the following:

(1) Inpatient and outpatient hospital services.

(2) Inpatient and outpatient rehabilitation services.

(3) Covered skilled nursing facility services.

(4) Home health services.

(5) Physical or occupational therapy or speech-language pathology services.

(6) Items and services furnished to such individuals determined to have end stage renal disease.

(7) Partial hospitalization services and other mental health services.

(8) Any other service for which payment is made under such title as the Secretary determines to be appropriate.

SEC. 546. GAO REPORT ON IMPACT OF THE EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT (EMTALA) ON HOSPITAL EMERGENCY DEPARTMENTS.

(a) REPORT.—The Comptroller General of the United States shall submit a report to the Committee on Commerce and the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate by May 1, 2001, on the effect of the Emergency Medical Treatment and Active Labor Act on hospitals, emergency physicians, and physicians covering emergency department call throughout the United States.

(b) REPORT REQUIREMENTS.—The report should evaluate—

(1) the extent to which hospitals, emergency physicians, and physicians covering emergency department call provide uncompensated services in relation to the requirements of EMTALA;

(2) the extent to which the regulatory requirements and enforcement of EMTALA have expanded beyond the legislation's original intent;

(3) estimates for the total dollar amount of EMTALA-related care uncompensated costs to emergency physicians, physicians covering emergency department call, hospital emergency departments, and other hospital services;

(4) the extent to which different portions of the United States may be experiencing different levels of uncompensated EMTALA-related care;

(5) the extent to which EMTALA would be classified as an unfunded mandate if it were enacted today;

(6) the extent to which States have programs to provide financial support for such uncompensated care;

(7) possible sources of funds, including medicare hospital bad debt accounts, that are available to hospitals to assist with the cost of such uncompensated care; and

(8) the financial strain that illegal immigration populations, the uninsured, and the underinsured place on hospital emergency departments, other hospital services, emergency physicians, and physicians covering emergency department call.

(c) DEFINITION.—In this section, the terms "Emergency Medical Treatment and Active Labor Act" and "EMTALA" mean section 1867 of the Social Security Act (42 U.S.C. 1395dd).

SEC. 547. CLARIFICATION OF APPLICATION OF TEMPORARY PAYMENT INCREASES FOR 2001.

(a) INPATIENT HOSPITAL SERVICES.—The payment increase provided under the following sections shall not apply to discharges occurring after fiscal year 2001 and shall not be taken into account in calculating the payment amounts applicable for discharges occurring after such fiscal year:

(1) Section 301(b)(2)(A) (relating to acute care hospital payment update).

(2) Section 302(b) (relating to IME percentage adjustment).

(3) Section 303(b)(2) (relating to DSH payments).

(b) SKILLED NURSING FACILITY SERVICES.—The payment increase provided under section 311(b)(2) (relating to covered skilled nursing facility services) shall not apply to services furnished after fiscal year 2001 and shall not be taken into account in calculating the payment amounts applicable for services furnished after such fiscal year.

(c) HOME HEALTH SERVICES.—

(1) TRANSITIONAL ALLOWANCE FOR FULL MARKETBASKET INCREASE.—The payment increase provided under section 502(b)(1)(B) shall not apply to episodes and visits ending after fiscal year 2001 and shall not be taken into account in calculating the payment amounts applicable for subsequent episodes and visits.

(2) TEMPORARY INCREASE FOR RURAL HOME HEALTH SERVICES.—The payment increase provided under section 508(a) for the period beginning on April 1, 2001, and ending on September 30, 2002, shall not apply to episodes and visits ending after such period, and shall not be taken into account in calculating the payment amounts applicable for episodes and visits occurring after such period.

(d) CALENDAR YEAR 2001 PROVISIONS.—The payment increase provided under the following sections shall not apply after calendar year 2001 and shall not be taken into account in calculating the payment amounts applicable for items and services furnished after such year:

(1) Section 401(c)(2) (relating to covered OPD services).

(2) Section 422(e)(2) (relating to renal dialysis services paid for on a composite rate basis).

(3) Section 423(a)(2)(B) (relating to ambulance services).
(4) Section 425(b)(2) (relating to durable medical equipment).
(5) Section 426(b)(2) (relating to prosthetic devices and orthotics and prosthetics).

TITLE VI—PROVISIONS RELATING TO PART C (MEDICARE+CHOICE PROGRAM) AND OTHER MEDICARE MANAGED CARE PROVISIONS

Subtitle A—Medicare+Choice Payment Reforms

SEC. 601. INCREASE IN MINIMUM PAYMENT AMOUNT.

(a) IN GENERAL.—Section 1853(c)(1)(B) (42 U.S.C. 1395w–23(c)(1)(B)) is amended—

(1) by redesignating clause (ii) as clause (iv);

(2) by inserting after clause (i) the following new clauses:

"(ii) For 1999 and 2000, the minimum amount determined under clause (i) or this clause, respectively, for the preceding year, increased by the national per capita Medicare+Choice growth percentage described in paragraph (6)(A) applicable to 1999 or 2000, respectively.

"(iii)(I) Subject to subclause (II), for 2001, for any area in a Metropolitan Statistical Area with a population of more than 250,000, $525, and for any other area $475.

"(II) In the case of an area outside the 50 States and the District of Columbia, the amount specified in this clause shall not exceed 120 percent of the amount determined under clause (ii) for such area for 2000."; and

(3) in clause (iv), as so redesignated—

(A) by striking "a succeeding year" and inserting "2002 and each succeeding year"; and

(B) by striking "clause (i)" and inserting "clause (iii)".

(b) SPECIAL RULE FOR JANUARY AND FEBRUARY OF 2001.—

(1) IN GENERAL.—Notwithstanding the amendments made by subsection (a), for purposes of making payments under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) for January and February 2001, the annual Medicare+Choice capitation rate for a Medicare+Choice payment area shall be calculated, and the excess amount under section 1854(f)(1)(B) of such Act (42 U.S.C. 1395w–24(f)(1)(B)) shall be determined, as if such amendments had not been enacted.

(2) CONSTRUCTION.—Paragraph (1) shall not be taken into account in computing such capitation rate for 2002 and subsequent years.

SEC. 602. INCREASE IN MINIMUM PERCENTAGE INCREASE.

(a) IN GENERAL.—Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended—

(1) by redesignating clause (ii) as clause (iv);
(2) by inserting after clause (i) the following new clauses:

"(ii) For 1999 and 2000, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

"(iii) For 2001, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2000."; and

(3) in clause (iv), as so redesignated, by striking "a subsequent year" and inserting "2002 and each succeeding year".

(b) APPLICATION OF SPECIAL RULE FOR JANUARY AND FEBRUARY OF 2001.—The provisions of section 601(b) shall apply with respect to the amendments made by subsection (a) in the same manner as they apply to the amendments made by section 601(a).

SEC. 603. PHASE-IN OF RISK ADJUSTMENT.

Section 1853(a)(3)(C) (42 U.S.C. 1395w–23(a)(3)(C)) is amended—

(1) in clause (ii)—

(A) in subclause (I), by striking "and 2001" and inserting "and each succeeding year through 2003" and by striking "and" at the end; and

(B) by striking subclause (II) and inserting the following new subclauses:

"(II) 30 percent of such capitation rate in 2004;

"(III) 50 percent of such capitation rate in 2005;

"(IV) 75 percent of such capitation rate in 2006; and

"(V) 100 percent of such capitation rate in 2007 and succeeding years."; and

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

"(iii) DATA FOR RISK ADJUSTMENT METHODOLOGY.—Such risk adjustment methodology for 2004 and each succeeding year, shall be based on data from inpatient hospital and ambulatory settings.".

SEC. 604. TRANSITION TO REVISED MEDICARE+CHOICE PAYMENT RATES.

(a) ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.—Within 2 weeks after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) for 2001, revised in accordance with the provisions of this Act.

(b) REENTRY INTO PROGRAM PERMITTED FOR MEDICARE+CHOICE PROGRAMS.—A Medicare+Choice organization that provided notice to the Secretary of Health and Human Services before the date of the enactment of this Act that it was terminating its contract under part C of title XVIII of the Social Security Act or was reducing the service area of a Medicare+Choice plan offered under such part shall be permitted to continue participation under such part, or to maintain the service area of such plan, for 2001 if it submits the Secretary with the information described in section 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–24(a)(1)) within 2 weeks after the date revised rates are announced by the Secretary under subsection (a).

(c) REVISED SUBMISSION OF PROPOSED PREMIUMS AND RELATED INFORMATION.—If—

(1) a Medicare+Choice organization provided notice to the Secretary of Health and Human Services as of July 3, 2000, that it was renewing its contract under part C of title XVIII of the Social Security Act for all or part of the service area or areas served under its current contract, and

(2) any part of the service area or areas addressed in such notice includes a payment area for which the Medicare+Choice capitation rate under section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) for 2001, as determined under subsection (a), is higher than the rate previously determined for such year,

such organization shall revise its submission of the information described in section 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–24(a)(1)), and shall submit such revised information to the Secretary, within 2 weeks after the date revised rates are announced by the Secretary under subsection (a). In making such submission, the organization may only reduce beneficiary premiums, reduce beneficiary cost-sharing, enhance benefits, utilize the stabilization fund described in section 1854(f)(2) of such Act (42 U.S.C. 1395w–24(f)(2)), or stabilize or enhance beneficiary access to providers (so long as such stabilization or enhancement does not result in increased beneficiary premiums, increased beneficiary cost-sharing, or reduced benefits).

(d) WAIVER OF LIMITS ON STABILIZATION FUND.—Any regulatory provision that limits the proportion of the excess amount that can be withheld in such stabilization fund for a contract period shall not apply with respect to submissions described in subsections (b) and (c).

(e) DISREGARD OF NEW RATE ANNOUNCEMENT IN APPLYING PASS-THROUGH FOR NEW NATIONAL COVERAGE DETERMINATIONS.—For purposes of applying section 1852(a)(5) of the Social Security Act (42 U.S.C. 1395w–22(a)(5)), the announcement of revised rates under subsection (a) shall not be treated as an announcement under section 1853(b) of such Act (42 U.S.C. 1395w–23(b)).

SEC. 605. REVISION OF PAYMENT RATES FOR ESRD PATIENTS ENROLLED IN MEDICARE+CHOICE PLANS.

(a) IN GENERAL.—Section 1853(a)(1)(B) (42 U.S.C. 1395w–23(a)(1)(B)) is amended by adding at the end the following: "In establishing such rates, the Secretary shall provide for appropriate adjustments to increase each rate to reflect the demonstration rate (including the risk adjustment methodology associated with such rate) of the social health maintenance organization end-stage renal disease capitation demonstrations (established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1993), and shall compute such rates by taking into account such factors as renal treatment modality, age, and the underlying cause of the end-stage renal disease.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments for months beginning with January 2002.

(c) PUBLICATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish for public comment a description of the appropriate adjustments described in the last sentence of section

1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B)), as added by subsection (a). The Secretary shall publish such adjustments in final form by not later than July 1, 2001, so that the amendment made by subsection (a) is implemented on a timely basis consistent with subsection (b).

SEC. 606. PERMITTING PREMIUM REDUCTIONS AS ADDITIONAL BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) IN GENERAL.—

(1) AUTHORIZATION OF PART B PREMIUM REDUCTIONS.—Section 1854(f)(1) (42 U.S.C. 1395w–24(f)(1)) is amended—

(A) by redesignating subparagraph (E) as subparagraph (F); and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) PREMIUM REDUCTIONS.—

"(i) IN GENERAL.—Subject to clause (ii), as part of providing any additional benefits required under subparagraph (A), a Medicare+Choice organization may elect a reduction in its payments under section 1853(a)(1)(A) with respect to a Medicare+Choice plan and the Secretary shall apply such reduction to reduce the premium under section 1839 of each enrollee in such plan as provided in section 1840(i).

"(ii) AMOUNT OF REDUCTION.—The amount of the reduction under clause (i) with respect to any enrollee in a Medicare+Choice plan—

"(I) may not exceed 125 percent of the premium described under section 1839(a)(3); and

"(II) shall apply uniformly to each enrollee of the Medicare+Choice plan to which such reduction applies.".

(2) CONFORMING AMENDMENTS.—

(A) ADJUSTMENT OF PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS.—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)) is amended by inserting "reduced by the amount of any reduction elected under section 1854(f)(1)(E) and" after "for that area,".

(B) ADJUSTMENT AND PAYMENT OF PART B PREMIUMS.—

(i) ADJUSTMENT OF PREMIUMS.—Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking "shall" and all that follows and inserting the following: "shall be the amount determined under paragraph (3), adjusted as required in accordance with subsections (b), (c), and (f), and to reflect 80 percent of any reduction elected under section 1854(f)(1)(E).".

(ii) PAYMENT OF PREMIUMS.—Section 1840 (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

"(i) In the case of an individual enrolled in a Medicare+Choice plan, the Secretary shall provide for necessary adjustments of the monthly beneficiary premium to reflect 80 percent of any reduction elected under section 1854(f)(1)(E). To the extent to which the Secretary determines that such an adjustment is appropriate, with the concurrence of any agency responsible for the administration of such benefits, such premium adjustment may be provided

directly, as an adjustment to any social security, railroad retirement, or civil service retirement benefits, or, in the case of an individual who receives medical assistance under title XIX for medicare costs described in section 1905(p)(3)(A)(ii), as an adjustment to the amount otherwise owed by the State for such medical assistance.".

(C) INFORMATION COMPARING PLAN PREMIUMS UNDER PART C.—Section 1851(d)(4)(B) (42 U.S.C. 1395w–21(d)(4)(B)) is amended—

(i) by striking "PREMIUMS.—The" and inserting "PREMIUMS.—

"(i) IN GENERAL.—The"; and

(ii) by adding at the end the following new clause:

"(ii) REDUCTIONS.—The reduction in part B premiums, if any.".

(D) TREATMENT OF REDUCTION FOR PURPOSES OF DETERMINING GOVERNMENT CONTRIBUTION UNDER PART B.—Section 1844 (42 U.S.C. 1395w) is amended by adding at the end the following new subsection:

"(c) The Secretary shall determine the Government contribution under subparagraphs (A) and (B) of subsection (a)(1) without regard to any premium reduction resulting from an election under section 1854(f)(1)(E).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning with 2003.

SEC. 607. FULL IMPLEMENTATION OF RISK ADJUSTMENT FOR CONGESTIVE HEART FAILURE ENROLLEES FOR 2001.

(a) IN GENERAL.—Section 1853(a)(3)(C) (42 U.S.C. 1395w–23(a)(3)(C)) is amended—

(1) in clause (ii), by striking "Such risk adjustment" and inserting "Except as provided in clause (iii), such risk adjustment"; and

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

"(iii) FULL IMPLEMENTATION OF RISK ADJUSTMENT FOR CONGESTIVE HEART FAILURE ENROLLEES FOR 2001.—

"(I) EXEMPTION FROM PHASE-IN.—Subject to subclause (II), the Secretary shall fully implement the risk adjustment methodology described in clause (i) with respect to each individual who has had a qualifying congestive heart failure inpatient diagnosis (as determined by the Secretary under such risk adjustment methodology) during the period beginning on July 1, 1999, and ending on June 30, 2000, and who is enrolled in a coordinated care plan that is the only coordinated care plan offered on January 1, 2001, in the service area of the individual.

"(II) PERIOD OF APPLICATION.—Subclause (I) shall only apply during the 1-year period beginning on January 1, 2001.".

(b) EXCLUSION FROM DETERMINATION OF THE BUDGET NEUTRALITY FACTOR.—Section 1853(c)(5) (42 U.S.C. 1395w–23(c)(5)) is amended by striking "subsection (i)" and inserting "subsections (a)(3)(C)(iii) and (i)".

SEC. 608. EXPANSION OF APPLICATION OF MEDICARE+CHOICE NEW ENTRY BONUS.

(a) IN GENERAL.—Section 1853(i)(1) (42 U.S.C. 1395w–23(i)(1)) is amended in the matter preceding subparagraph (A) by inserting ", or filed notice with the Secretary as of October 3, 2000, that they will not be offering such a plan as of January 1, 2001" after "January 1, 2000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the enactment of BBRA.

SEC. 609. REPORT ON INCLUSION OF CERTAIN COSTS OF THE DEPARTMENT OF VETERANS AFFAIRS AND MILITARY FACILITY SERVICES IN CALCULATING MEDICARE+CHOICE PAYMENT RATES.

The Secretary of Health and Human Services shall report to Congress by not later than January 1, 2003, on a method to phase-in the costs of military facility services furnished by the Department of Veterans Affairs, and the costs of military facility services furnished by the Department of Defense, to medicare-eligible beneficiaries in the calculation of an area's Medicare+Choice capitation payment. Such report shall include on a county-by-county basis—

(1) the actual or estimated cost of such services to medicare-eligible beneficiaries;

(2) the change in Medicare+Choice capitation payment rates if such costs are included in the calculation of payment rates;

(3) one or more proposals for the implementation of payment adjustments to Medicare+Choice plans in counties where the payment rate has been affected due to the failure to calculate the cost of such services to medicare-eligible beneficiaries; and

(4) a system to ensure that when a Medicare+Choice enrollee receives covered services through a facility of the Department of Veterans Affairs or the Department of Defense there is an appropriate payment recovery to the medicare program under title XVIII of the Social Security Act.

Subtitle B—Other Medicare+Choice Reforms

SEC. 611. PAYMENT OF ADDITIONAL AMOUNTS FOR NEW BENEFITS COVERED DURING A CONTRACT TERM.

(a) IN GENERAL.—Section 1853(c)(7) (42 U.S.C. 1395w–23(c)(7)) is amended to read as follows:

"(7) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS AND LEGISLATIVE CHANGES IN BENEFITS.—If the Secretary makes a determination with respect to coverage under this title or there is a change in benefits required to be provided under this part that the Secretary projects will result in a significant increase in the costs to Medicare+Choice of providing benefits under contracts under this part (for periods after any period described in section 1852(a)(5)), the Secretary shall adjust appropriately the payments to such organizations under this part. Such projection and adjustment shall be based on an analysis by the Chief Actuary of the Health Care Financing

Administration of the actuarial costs associated with the new benefits.".

(b) CONFORMING AMENDMENT.—Section 1852(a)(5) (42 U.S.C. 1395w–22(a)(5)) is amended—

(1) in the heading, by inserting "AND LEGISLATIVE CHANGES IN BENEFITS" after "NATIONAL COVERAGE DETERMINATIONS";

(2) by inserting "or legislative change in benefits required to be provided under this part" after "national coverage determination";

(3) in subparagraph (A), by inserting "or legislative change in benefits" after "such determination";

(4) in subparagraph (B), by inserting "or legislative change" after "if such coverage determination"; and

(5) by adding at the end the following:

"The projection under the previous sentence shall be based on an analysis by the Chief Actuary of the Health Care Financing Administration of the actuarial costs associated with the coverage determination or legislative change in benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section are effective on the date of the enactment of this Act and shall apply to national coverage determinations and legislative changes in benefits occurring on or after such date.

SEC. 612. RESTRICTION ON IMPLEMENTATION OF SIGNIFICANT NEW REGULATORY REQUIREMENTS MIDYEAR.

(a) IN GENERAL.—Section 1856(b) (42 U.S.C. 1395w–26(b)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF MIDYEAR IMPLEMENTATION OF SIGNIFICANT NEW REGULATORY REQUIREMENTS.—The Secretary may not implement, other than at the beginning of a calendar year, regulations under this section that impose new, significant regulatory requirements on a Medicare+Choice organization or plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

SEC. 613. TIMELY APPROVAL OF MARKETING MATERIAL THAT FOLLOWS MODEL MARKETING LANGUAGE.

(a) IN GENERAL.—Section 1851(h) (42 U.S.C. 1395w–21(h)) is amended—

(1) in paragraph (1)(A), by inserting "(or 10 days in the case described in paragraph (5))" after "45 days"; and

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

"(5) SPECIAL TREATMENT OF MARKETING MATERIAL FOLLOWING MODEL MARKETING LANGUAGE.—In the case of marketing material of an organization that uses, without modification, proposed model language specified by the Secretary, the period specified in paragraph (1)(A) shall be reduced from 45 days to 10 days.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to marketing material submitted on or after January 1, 2001.

SEC. 614. AVOIDING DUPLICATIVE REGULATION.

(a) IN GENERAL.—Section 1856(b)(3)(B) (42 U.S.C. 1395w–26(b)(3)(B)) is amended—

(1) in clause (i), by inserting "(including cost-sharing requirements)" after "Benefit requirements"; and

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

"(iv) Requirements relating to marketing materials and summaries and schedules of benefits regarding a Medicare+Choice plan.".

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

SEC. 615. ELECTION OF UNIFORM LOCAL COVERAGE POLICY FOR MEDICARE+CHOICE PLAN COVERING MULTIPLE LOCALITIES.

Section 1852(a)(2) (42 U.S.C. 1395w–22(a)(2)) is amended by adding at the end the following new subparagraph:

"(C) ELECTION OF UNIFORM COVERAGE POLICY.—In the case of a Medicare+Choice organization that offers a Medicare+Choice plan in an area in which more than one local coverage policy is applied with respect to different parts of the area, the organization may elect to have the local coverage policy for the part of the area that is most beneficial to Medicare+Choice enrollees (as identified by the Secretary) apply with respect to all Medicare+Choice enrollees enrolled in the plan.".

SEC. 616. ELIMINATING HEALTH DISPARITIES IN MEDICARE+CHOICE PROGRAM.

(a) QUALITY ASSURANCE PROGRAM FOCUS ON RACIAL AND ETHNIC MINORITIES.—Subparagraphs (A) and (B) of section 1852(e)(2) (42 U.S.C. 1395w–22(e)(2)) are each amended by adding at the end the following:

"Such program shall include a separate focus (with respect to all the elements described in this subparagraph) on racial and ethnic minorities.".

(b) REPORT.—Section 1852(e) (42 U.S.C. 1395w–22(e)) is amended by adding at the end the following new paragraph:

"(5) REPORT TO CONGRESS.—

"(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this paragraph, and biennially thereafter, the Secretary shall submit to Congress a report regarding how quality assurance programs conducted under this subsection focus on racial and ethnic minorities.

"(B) CONTENTS OF REPORT.—Each such report shall include the following:

"(i) A description of the means by which such programs focus on such racial and ethnic minorities.

"(ii) An evaluation of the impact of such programs on eliminating health disparities and on improving health outcomes, continuity and coordination of care, management of chronic conditions, and consumer satisfaction.

"(iii) Recommendations on ways to reduce clinical outcome disparities among racial and ethnic minorities.".

SEC. 617. MEDICARE+CHOICE PROGRAM COMPATIBILITY WITH EMPLOYER OR UNION GROUP HEALTH PLANS.

(a) IN GENERAL.—Section 1857 (42 U.S.C. 1395w–27) is amended by adding at the end the following new subsection:

"(i) MEDICARE+CHOICE PROGRAM COMPATIBILITY WITH EMPLOYER OR UNION GROUP HEALTH PLANS.—To facilitate the offering of Medicare+Choice plans under contracts between Medicare+Choice organizations and employers, labor organizations, or the trustees of a fund established by one or more employers or labor organizations (or combination thereof) to furnish benefits to the entity's employees, former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations, the Secretary may waive or modify requirements that hinder the design of, the offering of, or the enrollment in such Medicare+Choice plans.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to years beginning with 2001.

SEC. 618. SPECIAL MEDIGAP ENROLLMENT ANTIDISCRIMINATION PROVISION FOR CERTAIN BENEFICIARIES.

(a) DISENROLLMENT WINDOW IN ACCORDANCE WITH BENEFICIARY'S CIRCUMSTANCE.—Section 1882(s)(3) (42 U.S.C. 1395ss(s)(3)) is amended—

(1) in subparagraph (A), in the matter following clause (iii), by striking ", subject to subparagraph (E), seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph" and inserting "seeks to enroll under the policy during the period specified in subparagraph (E)"; and

(2) by striking subparagraph (E) and inserting the following new subparagraph:

"(E) For purposes of subparagraph (A), the time period specified in this subparagraph is—

"(i) in the case of an individual described in subparagraph (B)(i), the period beginning on the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if no such notice is received, notice that a claim has been denied because of such a termination or cessation) and ending on the date that is 63 days after the applicable notice;

"(ii) in the case of an individual described in clause (ii), (iii), (v), or (vi) of subparagraph (B) whose enrollment is terminated involuntarily, the period beginning on the date that the individual receives a notice of termination and ending on the date that is 63 days after the date the applicable coverage is terminated;

"(iii) in the case of an individual described in subparagraph (B)(iv)(I), the period beginning on the earlier of (I) the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice, if any, and (II) the date that the applicable coverage is terminated, and ending on the date that is 63 days after the date the coverage is terminated;

"(iv) in the case of an individual described in clause (ii), (iii), (iv)(II), (iv)(III), (v), or (vi) of subparagraph (B) who disenrolls voluntarily, the period beginning on the date that is 60 days before the effective date of the disenrollment and ending on the date that is 63 days after such effective date; and

"(v) in the case of an individual described in subparagraph (B) but not described in the preceding provisions of this

subparagraph, the period beginning on the effective date of the disenrollment and ending on the date that is 63 days after such effective date.".

(b) EXTENDED MEDIGAP ACCESS FOR INTERRUPTED TRIAL PERIODS.—Section 1882(s)(3) (42 U.S.C. 1395ss(s)(3)), as amended by subsection (a), is further amended by adding at the end the following new subparagraph:

"(F)(i) Subject to clause (ii), for purposes of this paragraph—

"(I) in the case of an individual described in subparagraph (B)(v) (or deemed to be so described, pursuant to this subparagraph) whose enrollment with an organization or provider described in subclause (II) of such subparagraph is involuntarily terminated within the first 12 months of such enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, such subsequent enrollment shall be deemed to be an initial enrollment described in such subparagraph; and

"(II) in the case of an individual described in clause (vi) of subparagraph (B) (or deemed to be so described, pursuant to this subparagraph) whose enrollment with a plan or in a program described in such clause is involuntarily terminated within the first 12 months of such enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, such subsequent enrollment shall be deemed to be an initial enrollment described in such clause.

"(ii) For purposes of clauses (v) and (vi) of subparagraph (B), no enrollment of an individual with an organization or provider described in clause (v)(II), or with a plan or in a program described in clause (vi), may be deemed to be an initial enrollment under this clause after the 2-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan, or program.".

SEC. 619. RESTORING EFFECTIVE DATE OF ELECTIONS AND CHANGES OF ELECTIONS OF MEDICARE+CHOICE PLANS.

(a) OPEN ENROLLMENT.—Section 1851(f)(2) (42 U.S.C. 1395w–21(f)(2)) is amended by striking ", except that if such election or change is made after the 10th day of any calendar month, then the election or change shall not take effect until the first day of the second calendar month following the date on which the election or change is made".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections and changes of coverage made on or after June 1, 2001.

SEC. 620. PERMITTING ESRD BENEFICIARIES TO ENROLL IN ANOTHER MEDICARE+CHOICE PLAN IF THE PLAN IN WHICH THEY ARE ENROLLED IS TERMINATED.

(a) IN GENERAL.—Section 1851(a)(3)(B) (42 U.S.C. 1395w–21(a)(3)(B)) is amended by striking "except that" and all that follows and inserting the following: "except that—

"(i) an individual who develops end-stage renal disease while enrolled in a Medicare+Choice plan may continue to be enrolled in that plan; and

"(ii) in the case of such an individual who is enrolled in a Medicare+Choice plan under clause (i) (or subsequently under this clause), if the enrollment

is discontinued under circumstances described in section 1851(e)(4)(A), then the individual will be treated as a 'Medicare+Choice eligible individual' for purposes of electing to continue enrollment in another Medicare+Choice plan.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to terminations and discontinuations occurring on or after the date of the enactment of this Act.

(2) APPLICATION TO PRIOR PLAN TERMINATIONS.—Clause (ii) of section 1851(a)(3)(B) of the Social Security Act (as inserted by subsection (a)) shall also apply to individuals whose enrollment in a Medicare+Choice plan was terminated or discontinued after December 31, 1998, and before the date of the enactment of this Act. In applying this paragraph, such an individual shall be treated, for purposes of part C of title XVIII of the Social Security Act, as having discontinued enrollment in such a plan as of the date of the enactment of this Act.

SEC. 621. PROVIDING CHOICE FOR SKILLED NURSING FACILITY SERVICES UNDER THE MEDICARE+CHOICE PROGRAM.

(a) IN GENERAL.—Section 1852 (42 U.S.C. 1395w–22) is amended by adding at the end the following new subsection:

"(l) RETURN TO HOME SKILLED NURSING FACILITIES FOR COVERED POST-HOSPITAL EXTENDED CARE SERVICES.—

"(1) ENSURING RETURN TO HOME SNF.—

"(A) IN GENERAL.—In providing coverage of post-hospital extended care services, a Medicare+Choice plan shall provide for such coverage through a home skilled nursing facility if the following conditions are met:

"(i) ENROLLEE ELECTION.—The enrollee elects to receive such coverage through such facility.

"(ii) SNF AGREEMENT.—The facility has a contract with the Medicare+Choice organization for the provision of such services, or the facility agrees to accept substantially similar payment under the same terms and conditions that apply to similarly situated skilled nursing facilities that are under contract with the Medicare+Choice organization for the provision of such services and through which the enrollee would otherwise receive such services.

"(B) MANNER OF PAYMENT TO HOME SNF.—The organization shall provide payment to the home skilled nursing facility consistent with the contract or the agreement described in subparagraph (A)(ii), as the case may be.

"(2) NO LESS FAVORABLE COVERAGE.—The coverage provided under paragraph (1) (including scope of services, cost-sharing, and other criteria of coverage) shall be no less favorable to the enrollee than the coverage that would be provided to the enrollee with respect to a skilled nursing facility the post-hospital extended care services of which are otherwise covered under the Medicare+Choice plan.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to do the following:

"(A) To require coverage through a skilled nursing facility that is not otherwise qualified to provide benefits under part A for medicare beneficiaries not enrolled in a Medicare+Choice plan.

"(B) To prevent a skilled nursing facility from refusing to accept, or imposing conditions upon the acceptance of, an enrollee for the receipt of post-hospital extended care services.

"(4) DEFINITIONS.—In this subsection:

"(A) HOME SKILLED NURSING FACILITY.—The term 'home skilled nursing facility' means, with respect to an enrollee who is entitled to receive post-hospital extended care services under a Medicare+Choice plan, any of the following skilled nursing facilities:

"(i) SNF RESIDENCE AT TIME OF ADMISSION.—The skilled nursing facility in which the enrollee resided at the time of admission to the hospital preceding the receipt of such post-hospital extended care services.

"(ii) SNF IN CONTINUING CARE RETIREMENT COMMUNITY.—A skilled nursing facility that is providing such services through a continuing care retirement community (as defined in subparagraph (B)) which provided residence to the enrollee at the time of such admission.

"(iii) SNF RESIDENCE OF SPOUSE AT TIME OF DISCHARGE.—The skilled nursing facility in which the spouse of the enrollee is residing at the time of discharge from such hospital.

"(B) CONTINUING CARE RETIREMENT COMMUNITY.—The term 'continuing care retirement community' means, with respect to an enrollee in a Medicare+Choice plan, an arrangement under which housing and health-related services are provided (or arranged) through an organization for the enrollee under an agreement that is effective for the life of the enrollee or for a specified period.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

(c) MEDPAC STUDY.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study analyzing the effects of the amendment made by subsection (a) on Medicare+Choice organizations. In conducting such study, the Commission shall examine the effects (if any) such amendment has had—

(A) on the scope of additional benefits provided under the Medicare+Choice program;

(B) on the administrative and other costs incurred by Medicare+Choice organizations; and

(C) on the contractual relationships between such organizations and skilled nursing facilities.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 622. PROVIDING FOR ACCOUNTABILITY OF MEDICARE+CHOICE PLANS.

(a) MANDATORY REVIEW OF ACR SUBMISSIONS BY THE CHIEF ACTUARY OF THE HEALTH CARE FINANCING ADMINISTRATION.—Section 1854(a)(5)(A) (42 U.S.C. 1395w–24(a)(5)(A)) is amended—

(1) by striking "value" and inserting "values"; and

(2) by adding at the end the following: "The Chief Actuary of the Health Care Financing Administration shall review the actuarial assumptions and data used by the Medicare+Choice organization with respect to such rates, amounts, and values so submitted to determine the appropriateness of such assumptions and data.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to submissions made on or after May 1, 2001.

SEC. 623. INCREASED CIVIL MONEY PENALTY FOR MEDICARE+CHOICE ORGANIZATIONS THAT TERMINATE CONTRACTS MID-YEAR.

(a) IN GENERAL.—Section 1857(g)(3) (42 U.S.C. 1395w–27(g)(3)) is amended by adding at the end the following new subparagraph:

"(D) Civil monetary penalties of not more than $100,000, or such higher amount as the Secretary may establish by regulation, where the finding under subsection (c)(2)(A) is based on the organization's termination of its contract under this section other than at a time and in a manner provided for under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to terminations occurring after the date of the enactment of this Act.

Subtitle C—Other Managed Care Reforms

SEC. 631. ONE-YEAR EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.

Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987, as amended by section 531(a)(1) of BBRA (113 Stat. 1501A–388), is amended by striking "18 months" and inserting "30 months".

SEC. 632. REVISED TERMS AND CONDITIONS FOR EXTENSION OF MEDICARE COMMUNITY NURSING ORGANIZATION (CNO) DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 532 of BBRA (113 Stat. 1501A–388) is amended—

(1) in subsection (a), by striking the second sentence; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) TERMS AND CONDITIONS.—

"(1) JANUARY THROUGH SEPTEMBER 2000.—For the 9-month period beginning with January 2000, any such demonstration project shall be conducted under the same terms and conditions as applied to such demonstration during 1999.

"(2) OCTOBER 2000 THROUGH DECEMBER 2001.—For the 15-month period beginning with October 2000, any such demonstration project shall be conducted under the same terms and conditions as applied to such demonstration during 1999, except that the following modifications shall apply:

"(A) BASIC CAPITATION RATE.—The basic capitation rate paid for services covered under the project (other than case management services) per enrollee per month and furnished during—

"(i) the period beginning with October 1, 2000, and ending with December 31, 2000, shall be determined by actuarially adjusting the actual capitation rate paid for such services in 1999 for inflation, utilization, and other changes to the CNO service package, and by reducing such adjusted capitation rate by 10 percent in the case of the demonstration sites located in Arizona, Minnesota, and Illinois, and 15 percent for the demonstration site located in New York; and

"(ii) 2001 shall be determined by actuarially adjusting the capitation rate determined under clause (i) for inflation, utilization, and other changes to the CNO service package.

"(B) TARGETED CASE MANAGEMENT FEE.—Effective October 1, 2000—

"(i) the case management fee per enrollee per month for—

"(I) the period described in subparagraph (A)(i) shall be determined by actuarially adjusting the case management fee for 1999 for inflation; and

"(II) 2001 shall be determined by actuarially adjusting the amount determined under subclause (I) for inflation; and

"(ii) such case management fee shall be paid only for enrollees who are classified as moderately frail or frail pursuant to criteria established by the Secretary.

"(C) GREATER UNIFORMITY IN CLINICAL FEATURES AMONG SITES.—Each project shall implement for each site—

"(i) protocols for periodic telephonic contact with enrollees based on—

"(I) the results of such standardized written health assessment; and

"(II) the application of appropriate care planning approaches;

"(ii) disease management programs for targeted diseases (such as congestive heart failure, arthritis, diabetes, and hypertension) that are highly prevalent in the enrolled populations;

"(iii) systems and protocols to track enrollees through hospitalizations, including pre-admission planning, concurrent management during inpatient hospital stays, and post-discharge assessment, planning, and follow-up; and

"(iv) standardized patient educational materials for specified diseases and health conditions.

"(D) QUALITY IMPROVEMENT.—Each project shall implement at each site once during the 15-month period—

"(i) enrollee satisfaction surveys; and

"(ii) reporting on specified quality indicators for the enrolled population.

"(c) EVALUATION.—

"(1) PRELIMINARY REPORT.—Not later than July 1, 2001, the Secretary of Health and Human Services shall submit to the Committees on Ways and Means and Commerce of the House of Representatives and the Committee on Finance of the Senate a preliminary report that—

"(A) evaluates such demonstration projects for the period beginning July 1, 1997, and ending December 31, 1999, on a site-specific basis with respect to the impact on per beneficiary spending, specific health utilization measures, and enrollee satisfaction; and

"(B) includes a similar evaluation of such projects for the portion of the extension period that occurs after September 30, 2000.

"(2) FINAL REPORT.—The Secretary shall submit a final report to such Committees on such demonstration projects not later than July 1, 2002. Such report shall include the same elements as the preliminary report required by paragraph (1), but for the period after December 31, 1999.

"(3) METHODOLOGY FOR SPENDING COMPARISONS.—Any evaluation of the impact of the demonstration projects on per beneficiary spending included in such reports shall include a comparison of—

"(A) data for all individuals who—

"(i) were enrolled in such demonstration projects as of the first day of the period under evaluation; and

"(ii) were enrolled for a minimum of 6 months thereafter; with

"(B) data for a matched sample of individuals who are enrolled under part B of title XVIII of the Social Security Act and are not enrolled in such a project, or in a Medicare+Choice plan under part C of such title, a plan offered by an eligible organization under section 1876 of such Act, or a health care prepayment plan under section 1833(a)(1)(A) of such Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of section 532 of BBRA (113 Stat. 1501A–388).

SEC. 633. EXTENSION OF MEDICARE MUNICIPAL HEALTH SERVICES DEMONSTRATION PROJECTS.

Section 9215(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1395b–1 note), as amended by section 6135 of the Omnibus Budget Reconciliation Act of 1989, section 13557 of the Omnibus Budget Reconciliation Act of 1993, section 4017 of BBA, and section 534 of BBRA (113 Stat. 1501A–390), is amended by striking "December 31, 2002" and inserting "December 31, 2004".

SEC. 634. SERVICE AREA EXPANSION FOR MEDICARE COST CONTRACTS DURING TRANSITION PERIOD.

Section 1876(h)(5) (42 U.S.C. 1395mm(h)(5)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A), the following new subparagraph:

"(B) Subject to subparagraph (C), the Secretary shall approve an application for a modification to a reasonable cost contract

under this section in order to expand the service area of such contract if—

"(i) such application is submitted to the Secretary on or before September 1, 2003; and

"(ii) the Secretary determines that the organization with the contract continues to meet the requirements applicable to such organizations and contracts under this section.".

TITLE VII—MEDICAID

SEC. 701. DSH PAYMENTS.

(a) MODIFICATIONS TO DSH ALLOTMENTS.—

(1) INCREASED ALLOTMENTS FOR FISCAL YEARS 2001 AND 2002.—

(A) IN GENERAL.—Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended—

(i) in paragraph (2), by striking "The DSH allotment" and inserting "Subject to paragraph (4), the DSH allotment";

(ii) by redesignating paragraph (4) as paragraph (6); and

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the DSH allotment for any State for—

"(i) fiscal year 2001, shall be the DSH allotment determined under paragraph (2) for fiscal year 2000 increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) for fiscal year 2000; and

"(ii) fiscal year 2002, shall be the DSH allotment determined under clause (i) increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) for fiscal year 2001.

"(B) LIMITATION.—Subparagraph (B) of paragraph (3) shall apply to subparagraph (A) of this paragraph in the same manner as that subparagraph (B) applies to paragraph (3)(A).

"(C) NO APPLICATION TO ALLOTMENTS AFTER FISCAL YEAR 2002.—The DSH allotment for any State for fiscal year 2003 or any succeeding fiscal year shall be determined under paragraph (3) without regard to the DSH allotments determined under subparagraph (A) of this paragraph.".

(2) SPECIAL RULE FOR MEDICAID DSH ALLOTMENT FOR EXTREMELY LOW DSH STATES.—

(A) IN GENERAL.—Section 1923(f) (42 U.S.C. 1396r–4(f)), as amended by paragraph (1), is amended by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULE FOR EXTREMELY LOW DSH STATES.—In the case of a State in which the total expenditures under the State plan (including Federal and State shares) for disproportionate share hospital adjustments under this section

for fiscal year 1999, as reported to the Administrator of the Health Care Financing Administration as of August 31, 2000, is greater than 0 but less than 1 percent of the State's total amount of expenditures under the State plan for medical assistance during the fiscal year, the DSH allotment for fiscal year 2001 shall be increased to 1 percent of the State's total amount of expenditures under such plan for such assistance during such fiscal year. In subsequent fiscal years, such increased allotment is subject to an increase for inflation as provided in paragraph (3)(A).".

(B) CONFORMING AMENDMENT.—Section 1923(f)(3)(A) (42 U.S.C. 1396r–4(f)(3)(A)) is amended by inserting "and paragraph (5)" after "subparagraph (B)".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) take effect on the date the final regulation required under section 705(a) (relating to the application of an aggregate upper payment limit test for State medicaid spending for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services provided by government facilities that are not State-owned or operated facilities) is published in the Federal Register.

(b) ASSURING IDENTIFICATION OF MEDICAID MANAGED CARE PATIENTS.—

(1) IN GENERAL.—Section 1932 (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

"(g) IDENTIFICATION OF PATIENTS FOR PURPOSES OF MAKING DSH PAYMENTS.—Each contract with a managed care entity under section 1903(m) or under section 1905(t)(3) shall require the entity either—

"(1) to report to the State information necessary to determine the hospital services provided under the contract (and the identity of hospitals providing such services) for purposes of applying sections 1886(d)(5)(F) and 1923; or

"(2) to include a sponsorship code in the identification card issued to individuals covered under this title in order that a hospital may identify a patient as being entitled to benefits under this title.".

(2) CLARIFICATION OF COUNTING MANAGED CARE MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r–4) is amended—

(A) in subsection (a)(2)(D), by inserting after "the proportion of low-income and medicaid patients" the following: "(including such patients who receive benefits through a managed care entity)";

(B) in subsection (b)(2), by inserting after "a State plan approved under this title in a period" the following: "(regardless of whether such patients receive medical assistance on a fee-for-service basis or through a managed care entity)"; and

(C) in subsection (b)(3)(A)(i), by inserting after "under a State plan under this title" the following: "(regardless of whether the services were furnished on a fee-for-service basis or through a managed care entity)".

(3) EFFECTIVE DATES.—

(A) The amendment made by paragraph (1) shall apply to contracts as of January 1, 2001.

(B) The amendments made by paragraph (2) shall apply to payments made on or after January 1, 2001.

(c) APPLICATION OF MEDICAID DSH TRANSITION RULE TO PUBLIC HOSPITALS IN ALL STATES.—

(1) IN GENERAL.—During the period described in paragraph (3), with respect to a State, section 4721(e) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 514), as amended by section 607 of BBRA (113 Stat. 1501A–396), shall be applied as though—

(A) "September 30, 2002" were substituted for "July 1, 1997" each place it appears;

(B) "hospitals owned or operated by a State (as defined for purposes of title XIX of such Act), or by an instrumentality or a unit of government within a State (as so defined)" were substituted for "the State of California";

(C) paragraph (3) were redesignated as paragraph (4);

(D) "and" were omitted from the end of paragraph (2); and

(E) the following new paragraph were inserted after paragraph (2):

"(3) '(as defined in subparagraph (B) but without regard to clause (ii) of that subparagraph and subject to subsection (d))' were substituted for '(as defined in subparagraph (B))' in subparagraph (A) of such section; and".

(2) SPECIAL RULE.—With respect to California, section 4721(e) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 514), as so amended, shall be applied without regard to paragraph (1).

(3) PERIOD DESCRIBED.—The period described in this paragraph is the period that begins, with respect to a State, on the first day of the first State fiscal year that begins after September 30, 2002, and ends on the last day of the succeeding State fiscal year.

(4) APPLICATION TO WAIVERS.—With respect to a State operating under a waiver of the requirements of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) under section 1115 of such Act (42 U.S.C. 1315), the amount by which any payment adjustment made by the State under title XIX of such Act (42 U.S.C. 1396 et seq.), after the application of section 4721(e) of the Balanced Budget Act of 1997 under paragraph (1) to such State, exceeds the costs of furnishing hospital services provided by hospitals described in such section shall be fully reflected as an increase in the baseline expenditure limit for such waiver.

(d) ASSISTANCE FOR CERTAIN PUBLIC HOSPITALS.—

(1) IN GENERAL.—Beginning with fiscal year 2002, notwithstanding section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) and subject to paragraph (3), with respect to a State, payment adjustments made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to a hospital described in paragraph (2) shall be made without regard to the DSH allotment limitation for the State determined under section 1923(f) of that Act (42 U.S.C. 1396r–4(f)).

(2) HOSPITAL DESCRIBED.—A hospital is described in this paragraph if the hospital—

(A) is owned or operated by a State (as defined for purposes of title XIX of the Social Security Act), or by

an instrumentality or a unit of government within a State (as so defined);

(B) as of October 1, 2000—

(i) is in existence and operating as a hospital described in subparagraph (A); and

(ii) is not receiving disproportionate share hospital payments from the State in which it is located under title XIX of such Act; and

(C) has a low-income utilization rate (as defined in section 1923(b)(3) of the Social Security Act (42 U.S.C. 1396r–4(b)(3))) in excess of 65 percent.

(3) LIMITATION ON EXPENDITURES.—

(A) IN GENERAL.—With respect to any fiscal year, the aggregate amount of Federal financial participation that may be provided for payment adjustments described in paragraph (1) for that fiscal year for all States may not exceed the amount described in subparagraph (B) for the fiscal year.

(B) AMOUNT DESCRIBED.—The amount described in this subparagraph for a fiscal year is as follows:

(i) For fiscal year 2002, $15,000,000.

(ii) For fiscal year 2003, $176,000,000.

(iii) For fiscal year 2004, $269,000,000.

(iv) For fiscal year 2005, $330,000,000.

(v) For fiscal year 2006 and each fiscal year thereafter, $375,000,000.

(e) DSH PAYMENT ACCOUNTABILITY STANDARDS.—Not later than September 30, 2002, the Secretary of Health and Human Services shall implement accountability standards to ensure that Federal funds provided with respect to disproportionate share hospital adjustments made under section 1923 of the Social Security Act (42 U.S.C. 1396r–4) are used to reimburse States and hospitals eligible for such payment adjustments for providing uncompensated health care to low-income patients and are otherwise made in accordance with the requirements of section 1923 of that Act.

SEC. 702. NEW PROSPECTIVE PAYMENT SYSTEM FOR FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (13)—

(A) in subparagraph (A), by adding "and" at the end;

(B) in subparagraph (B), by striking "and" at the end; and

(C) by striking subparagraph (C); and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) provide for payment for services described in clause (B) or (C) of section 1905(a)(2) under the plan in accordance with subsection (aa);".

(b) NEW PROSPECTIVE PAYMENT SYSTEM.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following:

"(aa) PAYMENT FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—

"(1) IN GENERAL.—Beginning with fiscal year 2001 with respect to services furnished on or after January 1, 2001, and

each succeeding fiscal year, the State plan shall provide for payment for services described in section 1905(a)(2)(C) furnished by a Federally-qualified health center and services described in section 1905(a)(2)(B) furnished by a rural health clinic in accordance with the provisions of this subsection.

"(2) FISCAL YEAR 2001.—Subject to paragraph (4), for services furnished on and after January 1, 2001, during fiscal year 2001, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to 100 percent of the average of the costs of the center or clinic of furnishing such services during fiscal years 1999 and 2000 which are reasonable and related to the cost of furnishing such services, or based on such other tests of reasonableness as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which such regulations do not apply, the same methodology used under section 1833(a)(3), adjusted to take into account any increase or decrease in the scope of such services furnished by the center or clinic during fiscal year 2001.

"(3) FISCAL YEAR 2002 AND SUCCEEDING FISCAL YEARS.—Subject to paragraph (4), for services furnished during fiscal year 2002 or a succeeding fiscal year, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to the amount calculated for such services under this subsection for the preceding fiscal year—

"(A) increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) applicable to primary care services (as defined in section 1842(i)(4)) for that fiscal year; and

"(B) adjusted to take into account any increase or decrease in the scope of such services furnished by the center or clinic during that fiscal year.

"(4) ESTABLISHMENT OF INITIAL YEAR PAYMENT AMOUNT FOR NEW CENTERS OR CLINICS.—In any case in which an entity first qualifies as a Federally-qualified health center or rural health clinic after fiscal year 2000, the State plan shall provide for payment for services described in section 1905(a)(2)(C) furnished by the center or services described in section 1905(a)(2)(B) furnished by the clinic in the first fiscal year in which the center or clinic so qualifies in an amount (calculated on a per visit basis) that is equal to 100 percent of the costs of furnishing such services during such fiscal year based on the rates established under this subsection for the fiscal year for other such centers or clinics located in the same or adjacent area with a similar case load or, in the absence of such a center or clinic, in accordance with the regulations and methodology referred to in paragraph (2) or based on such other tests of reasonableness as the Secretary may specify. For each fiscal year following the fiscal year in which the entity first qualifies as a Federally-qualified health center or rural health clinic, the State plan shall provide for the payment amount to be calculated in accordance with paragraph (3).

"(5) ADMINISTRATION IN THE CASE OF MANAGED CARE.—

"(A) IN GENERAL.—In the case of services furnished by a Federally-qualified health center or rural health clinic

pursuant to a contract between the center or clinic and a managed care entity (as defined in section 1932(a)(1)(B)), the State plan shall provide for payment to the center or clinic by the State of a supplemental payment equal to the amount (if any) by which the amount determined under paragraphs (2), (3), and (4) of this subsection exceeds the amount of the payments provided under the contract.

"(B) PAYMENT SCHEDULE.—The supplemental payment required under subparagraph (A) shall be made pursuant to a payment schedule agreed to by the State and the Federally-qualified health center or rural health clinic, but in no case less frequently than every 4 months.

"(6) ALTERNATIVE PAYMENT METHODOLOGIES.—Notwithstanding any other provision of this section, the State plan may provide for payment in any fiscal year to a Federally-qualified health center for services described in section 1905(a)(2)(C) or to a rural health clinic for services described in section 1905(a)(2)(B) in an amount which is determined under an alternative payment methodology that—

"(A) is agreed to by the State and the center or clinic; and

"(B) results in payment to the center or clinic of an amount which is at least equal to the amount otherwise required to be paid to the center or clinic under this section.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4712 of the BBA (Public Law 105–33; 111 Stat. 508) is amended by striking subsection (c).

(2) Section 1915(b) (42 U.S.C. 1396n(b)) is amended by striking "1902(a)(13)(C)" and inserting "1902(a)(15), 1902(aa),".

(d) GAO STUDY OF FUTURE REBASING.—The Comptroller General of the United States shall provide for a study on the need for, and how to, rebase or refine costs for making payment under the medicaid program for services provided by Federally-qualified health centers and rural health clinics (as provided under the amendments made by this section). The Comptroller General shall provide for submittal of a report on such study to Congress by not later than 4 years after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2001, and shall apply to services furnished on or after such date.

SEC. 703. STREAMLINED APPROVAL OF CONTINUED STATE-WIDE SECTION 1115 MEDICAID WAIVERS.

(a) IN GENERAL.—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following new subsection:

"(f) An application by the chief executive officer of a State for an extension of a waiver project the State is operating under an extension under subsection (e) (in this subsection referred to as the 'waiver project') shall be submitted and approved or disapproved in accordance with the following:

"(1) The application for an extension of the waiver project shall be submitted to the Secretary at least 120 days prior to the expiration of the current period of the waiver project.

"(2) Not later than 45 days after the date such application is received by the Secretary, the Secretary shall notify the

State if the Secretary intends to review the terms and conditions of the waiver project. A failure to provide such notification shall be deemed to be an approval of the application.

"(3) Not later than 45 days after the date a notification is made in accordance with paragraph (2), the Secretary shall inform the State of proposed changes in the terms and conditions of the waiver project. A failure to provide such information shall be deemed to be an approval of the application.

"(4) During the 30-day period that begins on the date information described in paragraph (3) is provided to a State, the Secretary shall negotiate revised terms and conditions of the waiver project with the State.

"(5)(A) Not later than 120 days after the date an application for an extension of the waiver project is submitted to the Secretary (or such later date agreed to by the chief executive officer of the State), the Secretary shall—

"(i) approve the application subject to such modifications in the terms and conditions—

"(I) as have been agreed to by the Secretary and the State; or

"(II) in the absence of such agreement, as are determined by the Secretary to be reasonable, consistent with the overall objectives of the waiver project, and not in violation of applicable law; or

"(ii) disapprove the application.

"(B) A failure by the Secretary to approve or disapprove an application submitted under this subsection in accordance with the requirements of subparagraph (A) shall be deemed to be an approval of the application subject to such modifications in the terms and conditions as have been agreed to (if any) by the Secretary and the State.

"(6) An approval of an application for an extension of a waiver project under this subsection shall be for a period not to exceed 3 years.

"(7) An extension of a waiver project under this subsection shall be subject to the final reporting and evaluation requirements of paragraphs (4) and (5) of subsection (e) (taking into account the extension under this subsection with respect to any timing requirements imposed under those paragraphs).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests for extensions of demonstration projects pending or submitted on or after the date of the enactment of this Act.

SEC. 704. MEDICAID COUNTY-ORGANIZED HEALTH SYSTEMS.

(a) IN GENERAL.—Section 9517(c)(3)(C) of the Comprehensive Omnibus Budget Reconciliation Act of 1985 is amended by striking "10 percent" and inserting "14 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

SEC. 705. DEADLINE FOR ISSUANCE OF FINAL REGULATION RELATING TO MEDICAID UPPER PAYMENT LIMITS.

(a) IN GENERAL.—Not later than December 31, 2000, the Secretary of Health and Human Services (in this section referred to as the "Secretary"), notwithstanding any requirement of the Administrative Procedures Act under chapter 5 of title 5, United States Code, or any other provision of law, shall issue under sections

447.272, 447.304, and 447.321 of title 42, Code of Federal Regulations (and any other section of part 447 of title 42, Code of Federal Regulations that the Secretary determines is appropriate), a final regulation based on the proposed rule announced on October 5, 2000, that—

(1) modifies the upper payment limit test applied to State medicaid spending for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services by applying an aggregate upper payment limit to payments made to government facilities that are not State-owned or operated facilities; and

(2) provides for a transition period in accordance with subsection (b).

(b) TRANSITION PERIOD.—

(1) IN GENERAL.—The final regulation required under subsection (a) shall provide that, with respect to a State described in paragraph (3), the State shall be considered to be in compliance with the final regulation required under subsection (a) so long as, for each State fiscal year during the period described in paragraph (4), the State reduces payments under a State medicaid plan payment provision or methodology described in paragraph (3) (including a payment provision or methodology described in that paragraph that was approved under a waiver of such plan), or reduces the actual dollar payment levels described in paragraph (3)(B), so that the amount of the payments that would otherwise have been made under such provision, methodology, or payment levels by the State for any State fiscal year during such period is reduced by 15 percent in the first such State fiscal year, and by an additional 15 percent in each of the next 5 State fiscal years.

(2) REQUIREMENT.—Notwithstanding paragraph (1), the final regulation required under subsection (a) shall provide that, for any period (or portion of a period) that occurs on or after October 1, 2008, medicaid payments made by a State described in paragraph (3) shall comply with such final regulation.

(3) STATE DESCRIBED.—A State described in this paragraph is a State with a State medicaid plan payment provision or methodology (including a payment provision or methodology approved under a waiver of such plan) which—

(A) was approved, deemed to have been approved, or was in effect on or before October 1, 1992 (including any subsequent amendments or successor provisions or methodologies and whether or not a State plan amendment was made to carry out such provision or methodology after such date) or under which claims for Federal financial participation were filed and paid on or before such date; and

(B) provides for payments that are in excess of the upper payment limit test established under the final regulation required under subsection (a) (or which would be noncompliant with such final regulation if the actual dollar payment levels made under the payment provision or methodology in the State fiscal year which begins during 1999 were continued).

(4) PERIOD DESCRIBED.—The period described in this paragraph is the period that begins on the first State fiscal year that begins after September 30, 2002, and ends on September 30, 2008.

SEC. 706. ALASKA FMAP.

Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), only with respect to each of fiscal years 2001 through 2005, for purposes of titles XIX and XXI of the Social Security Act, the State percentage used to determine the Federal medical assistance percentage for Alaska shall be that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of Alaska (determined by dividing the State's 3-year average per capita income by 1.05) bears to the square of the per capita income of the 50 States.

SEC. 707. ONE-YEAR EXTENSION OF WELFARE-TO-WORK TRANSITION.

(a) IN GENERAL.—Section 1925(f) (42 U.S.C. 1396r–6(f)) is amended by striking "2001" and inserting "2002".

(b) CONFORMING AMENDMENT.—Section 1902(e)(1)(B) (42 U.S.C. 1396a(e)(1)(B)) is amended by striking "2001" and inserting "2002".

SEC. 708. ADDITIONAL ENTITIES QUALIFIED TO DETERMINE MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 1920A(b)(3)(A)(i) (42 U.S.C. 1396r–1a(b)(3)(A)(i)) is amended—

(1) by striking "or (II)" and inserting ", (II)"; and

(2) by inserting "eligibility of a child for medical assistance under the State plan under this title, or eligibility of a child for child health assistance under the program funded under title XXI, (III) is an elementary school or secondary school, as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), an elementary or secondary school operated or supported by the Bureau of Indian Affairs, a State or tribal child support enforcement agency, an organization that is providing emergency food and shelter under a grant under the Stewart B. McKinney Homeless Assistance Act, or a State or tribal office or entity involved in enrollment in the program under this title, under part A of title IV, under title XXI, or that determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under section 8 or any other section of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), or (IV) any other entity the State so deems, as approved by the Secretary" before the semicolon.

(b) TECHNICAL AMENDMENTS.—Section 1920A (42 U.S.C. 1396r–1a) is amended—

(1) in subsection (b)(3)(A)(i), by striking "42 U.S.C. 9821" and inserting "42 U.S.C. 9831";

(2) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)"; and

(3) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)".

SEC. 709. DEVELOPMENT OF UNIFORM QMB/SLMB APPLICATION FORM.

(a) IN GENERAL.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary shall develop and distribute to States a simplified application form for use by individuals (including both qualified medicare beneficiaries and specified low-income medicare beneficiaries) in applying for medical assistance for medicare cost-sharing under this title in the States which elect to use such form. Such form shall be easily readable by applicants and uniform nationally.

"(B) In developing such form, the Secretary shall consult with beneficiary groups and the States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act, regardless of whether regulations have been promulgated to carry out such amendment by such date. The Secretary of Health and Human Services shall develop the uniform application form under such amendment by not later than 9 months after the date of the enactment of this Act.

SEC. 710. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended—

(1) by inserting "1902(a)(10)(A)(ii)(XVII)," after "1902(a)(10)(A)(ii)(XVI),"; and

(2) by inserting "1902(a)(10)(A)(ii)(XVIII)," after "1902(a)(10)(A)(ii)(XVII),".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall be effective as if included in the enactment of section 121 of the Foster Care Independence Act of 1999 (Public Law 106–169).

(2) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106–354).

TITLE VIII—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SEC. 801. SPECIAL RULE FOR REDISTRIBUTION AND AVAILABILITY OF UNUSED FISCAL YEAR 1998 AND 1999 SCHIP ALLOTMENTS.

(a) CHANGE IN RULES FOR REDISTRIBUTION AND RETENTION OF UNUSED SCHIP ALLOTMENTS FOR FISCAL YEARS 1998 AND 1999.—Section 2104 (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

"(g) RULE FOR REDISTRIBUTION AND EXTENDED AVAILABILITY OF FISCAL YEARS 1998 AND 1999 ALLOTMENTS.—

"(1) AMOUNT REDISTRIBUTED.—

"(A) IN GENERAL.—In the case of a State that expends all of its allotment under subsection (b) or (c) for fiscal year 1998 by the end of fiscal year 2000, or for fiscal year 1999 by the end of fiscal year 2001, the Secretary shall redistribute to the State under subsection (f) (from the fiscal year 1998 or 1999 allotments of other States,

respectively, as determined by the application of paragraphs (2) and (3) with respect to the respective fiscal year) the following amount:

"(i) STATE.—In the case of one of the 50 States or the District of Columbia, with respect to—

"(I) the fiscal year 1998 allotment, the amount by which the State's expenditures under this title in fiscal years 1998, 1999, and 2000 exceed the State's allotment for fiscal year 1998 under subsection (b); or

"(II) the fiscal year 1999 allotment, the amount by which the State's expenditures under this title in fiscal years 1999, 2000, and 2001 exceed the State's allotment for fiscal year 1999 under subsection (b).

"(ii) TERRITORY.—In the case of a commonwealth or territory described in subsection (c)(3), an amount that bears the same ratio to 1.05 percent of the total amount described in paragraph (2)(B)(i)(I) as the ratio of the commonwealth's or territory's fiscal year 1998 or 1999 allotment under subsection (c) (as the case may be) bears to the total of all such allotments for such fiscal year under such subsection.

"(B) EXPENDITURE RULES.—An amount redistributed to a State under this paragraph with respect to fiscal year 1998 or 1999—

"(i) shall not be included in the determination of the State's allotment for any fiscal year under this section;

"(ii) notwithstanding subsection (e), shall remain available for expenditure by the State through the end of fiscal year 2002; and

"(iii) shall be counted as being expended with respect to a fiscal year allotment in accordance with applicable regulations of the Secretary.

"(2) EXTENSION OF AVAILABILITY OF PORTION OF UNEXPENDED FISCAL YEARS 1998 AND 1999 ALLOTMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (e):

"(i) FISCAL YEAR 1998 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 1998 that were not expended by the State by the end of fiscal year 2000, the amount specified in subparagraph (B) for fiscal year 1998 for such State shall remain available for expenditure by the State through the end of fiscal year 2002.

"(ii) FISCAL YEAR 1999 ALLOTMENT.—Of the amounts allotted to a State pursuant to this subsection for fiscal year 1999 that were not expended by the State by the end of fiscal year 2001, the amount specified in subparagraph (B) for fiscal year 1999 for such State shall remain available for expenditure by the State through the end of fiscal year 2002.

"(B) AMOUNT REMAINING AVAILABLE FOR EXPENDITURE.—The amount specified in this subparagraph for a State for a fiscal year is equal to—

"(i) the amount by which (I) the total amount available for redistribution under subsection (f) from

the allotments for that fiscal year, exceeds (II) the total amounts redistributed under paragraph (1) for that fiscal year; multiplied by

"(ii) the ratio of the amount of such State's unexpended allotment for that fiscal year to the total amount described in clause (i)(I) for that fiscal year.

"(C) USE OF UP TO 10 PERCENT OF RETAINED 1998 ALLOTMENTS FOR OUTREACH ACTIVITIES.—Notwithstanding section 2105(c)(2)(A), with respect to any State described in subparagraph (A)(i), the State may use up to 10 percent of the amount specified in subparagraph (B) for fiscal year 1998 for expenditures for outreach activities approved by the Secretary.

"(3) DETERMINATION OF AMOUNTS.—For purposes of calculating the amounts described in paragraphs (1) and (2) relating to the allotment for fiscal year 1998 or fiscal year 1999, the Secretary shall use the amounts reported by the States not later than December 15, 2000, or November 30, 2001, respectively, on HCFA Form 64 or HCFA Form 21, as approved by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 4901 of BBA (111 Stat. 552).

SEC. 802. AUTHORITY TO PAY MEDICAID EXPANSION SCHIP COSTS FROM TITLE XXI APPROPRIATION.

(a) AUTHORITY TO PAY MEDICAID EXPANSION SCHIP COSTS FROM TITLE XXI APPROPRIATION.—Section 2105(a) (42 U.S.C. 1397ee(a)) is amended—

(1) by redesignating subparagraphs (A) through (D) of paragraph (2) as clauses (i) through (iv), respectively, and indenting appropriately;

(2) by redesignating paragraph (1) as subparagraph (C), and indenting appropriately;

(3) by redesignating paragraph (2) as subparagraph (D), and indenting appropriately;

(4) by striking "(a) IN GENERAL.—" and the remainder of the text that precedes subparagraph (C), as so redesignated, and inserting the following:

"(a) PAYMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this title, from its allotment under section 2104, an amount for each quarter equal to the enhanced FMAP (or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b))) of expenditures in the quarter—

"(A) for child health assistance under the plan for targeted low-income children in the form of providing medical assistance for which payment is made on the basis of an enhanced FMAP under the fourth sentence of section 1905(b);

"(B) for the provision of medical assistance on behalf of a child during a presumptive eligibility period under section 1920A;"; and

(5) by adding after subparagraph (D), as so redesignated, the following new paragraph:

"(2) ORDER OF PAYMENTS.—Payments under paragraph (1) from a State's allotment shall be made in the following order:

"(A) First, for expenditures for items described in paragraph (1)(A).

"(B) Second, for expenditures for items described in paragraph (1)(B).

"(C) Third, for expenditures for items described in paragraph (1)(C).

"(D) Fourth, for expenditures for items described in paragraph (1)(D).".

(b) ELIMINATION OF REQUIREMENT TO REDUCE TITLE XXI ALLOTMENT BY MEDICAID EXPANSION SCHIP COSTS.—Section 2104 (42 U.S.C. 1397dd) is amended by striking subsection (d).

(c) AUTHORITY TO TRANSFER TITLE XXI APPROPRIATIONS TO TITLE XIX APPROPRIATION ACCOUNT AS REIMBURSEMENT FOR MEDICAID EXPENDITURES FOR MEDICAID EXPANSION SCHIP SERVICES.—Notwithstanding any other provision of law, all amounts appropriated under title XXI and allotted to a State pursuant to subsection (b) or (c) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal years 1998 through 2000 (including any amounts that, but for this provision, would be considered to have expired) and not expended in providing child health assistance or related services for which payment may be made pursuant to subparagraph (C) or (D) of section 2105(a)(1) of such Act (42 U.S.C. 1397ee(a)(1)) (as amended by subsection (a)), shall be available to reimburse the Grants to States for Medicaid account in an amount equal to the total payments made to such State under section 1903(a) of such Act (42 U.S.C. 1396b(a)) for expenditures in such years for medical assistance described in subparagraphs (A) and (B) of section 2105(a)(1) of such Act (42 U.S.C. 1397ee(a)(1)) (as so amended).

(d) CONFORMING AMENDMENTS.—

(1) Section 1905(b) (42 U.S.C. 1396d(b)) is amended in the fourth sentence by striking "the State's allotment under section 2104 (not taking into account reductions under section 2104(d)(2)) for the fiscal year reduced by the amount of any payments made under section 2105 to the State from such allotment for such fiscal year" and inserting "the State's available allotment under section 2104".

(2) Section 1905(u)(1)(B) (42 U.S.C. 1396d(u)(1)(B)) is amended by striking "and section 2104(d)".

(3) Section 2104 (42 U.S.C. 1397dd), as amended by subsection (b), is further amended—

(A) in subsection (b)(1), by striking "and subsection (d)"; and

(B) in subsection (c)(1), by striking "subject to subsection (d),".

(4) Section 2105(c) (42 U.S.C. 1397ee(c)) is amended—

(A) in paragraph (2)(A), by striking all that follows "Except as provided in this paragraph," and inserting "the amount of payment that may be made under subsection (a) for a fiscal year for expenditures for items described in paragraph (1)(D) of such subsection shall not exceed 10 percent of the total amount of expenditures for which

payment is made under subparagraphs (A), (C), and (D) of paragraph (1) of such subsection.";

(B) in paragraph (2)(B), by striking "described in subsection (a)(2)" and inserting "described in subsection (a)(1)(D)"; and

(C) in paragraph (6)(B), by striking "Except as otherwise provided by law," and inserting "Except as provided in subparagraph (A) or (B) of subsection (a)(1) or any other provision of law,".

(5) Section 2110(a) (42 U.S.C. 1397jj(a)) is amended by striking "section 2105(a)(2)(A)" and inserting "section 2105(a)(1)(D)(i)".

(e) TECHNICAL AMENDMENT.—Section 2105(d)(2)(B)(ii) (42 U.S.C. 1397ee(d)(2)(B)(ii)) is amended by striking "enhanced FMAP under section 1905(u)" and inserting "enhanced FMAP under the fourth sentence of section 1905(b)".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of section 4901 of the BBA (111 Stat. 552).

SEC. 803. APPLICATION OF MEDICAID CHILD PRESUMPTIVE ELIGIBILITY PROVISIONS.

Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) Section 1920A (relating to presumptive eligibility for children).".

TITLE IX—OTHER PROVISIONS

Subtitle A—PACE Program

SEC. 901. EXTENSION OF TRANSITION FOR CURRENT WAIVERS.

Section 4803(d)(2) of BBA is amended—

(1) in subparagraph (A), by striking "24 months" and inserting "36 months";

(2) in subparagraph (A), by striking "the initial effective date of regulations described in subsection (a)" and inserting "July 1, 2000"; and

(3) in subparagraph (B), by striking "3 years" and inserting "4 years".

SEC. 902. CONTINUING OF CERTAIN OPERATING ARRANGEMENTS PERMITTED.

(a) IN GENERAL.—Section 1894(f)(2) (42 U.S.C. 1395eee(f)(2)) is amended by adding at the end the following new subparagraph:

"(C) CONTINUATION OF MODIFICATIONS OR WAIVERS OF OPERATIONAL REQUIREMENTS UNDER DEMONSTRATION STATUS.—If a PACE program operating under demonstration authority has contractual or other operating arrangements which are not otherwise recognized in regulation and which were in effect on July 1, 2000, the Secretary (in close consultation with, and with the concurrence of, the State administering agency) shall permit any such program to continue such arrangements so long as such arrangements are found by the Secretary and the State to be reasonably consistent with the objectives of the PACE program.".

(b) CONFORMING AMENDMENT.—Section 1934(f)(2) (42 U.S.C. 1396u–4(f)(2)) is amended by adding at the end the following new subparagraph:

"(C) CONTINUATION OF MODIFICATIONS OR WAIVERS OF OPERATIONAL REQUIREMENTS UNDER DEMONSTRATION STATUS.—If a PACE program operating under demonstration authority has contractual or other operating arrangements which are not otherwise recognized in regulation and which were in effect on July 1 2000, the Secretary (in close consultation with, and with the concurrence of, the State administering agency) shall permit any such program to continue such arrangements so long as such arrangements are found by the Secretary and the State to be reasonably consistent with the objectives of the PACE program.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as included in the enactment of BBA.

SEC. 903. FLEXIBILITY IN EXERCISING WAIVER AUTHORITY.

In applying sections 1894(f)(2)(B) and 1934(f)(2)(B) of the Social Security Act (42 U.S.C. 1395eee(f)(2)(B), 1396u–4(f)(2)(B)), the Secretary of Health and Human Services—

(1) shall approve or deny a request for a modification or a waiver of provisions of the PACE protocol not later than 90 days after the date the Secretary receives the request; and

(2) may exercise authority to modify or waive such provisions in a manner that responds promptly to the needs of PACE programs relating to areas of employment and the use of community-based primary care physicians.

Subtitle B—Outreach to Eligible Low-Income Medicare Beneficiaries

SEC. 911. OUTREACH ON AVAILABILITY OF MEDICARE COST-SHARING ASSISTANCE TO ELIGIBLE LOW-INCOME MEDICARE BENEFICIARIES.

(a) OUTREACH.—

(1) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1143 the following new section:

"OUTREACH EFFORTS TO INCREASE AWARENESS OF THE AVAILABILITY OF MEDICARE COST-SHARING

"SEC. 1144. (a) OUTREACH.—

"(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the 'Commissioner') shall conduct outreach efforts to—

"(A) identify individuals entitled to benefits under the medicare program under title XVIII who may be eligible for medical assistance for payment of the cost of medicare cost-sharing under the medicaid program pursuant to sections 1902(a)(10)(E) and 1933; and

"(B) notify such individuals of the availability of such medical assistance under such sections.

"(2) CONTENT OF NOTICE.—Any notice furnished under paragraph (1) shall state that eligibility for medicare cost-sharing assistance under such sections is conditioned upon—

"(A) the individual providing to the State information about income and resources (in the case of an individual residing in a State that imposes an assets test for such eligibility); and

"(B) meeting the applicable eligibility criteria.

"(b) COORDINATION WITH STATES.—

"(1) IN GENERAL.—In conducting the outreach efforts under this section, the Commissioner shall—

"(A) furnish the agency of each State responsible for the administration of the medicaid program and any other appropriate State agency with information consisting of the name and address of individuals residing in the State that the Commissioner determines may be eligible for medical assistance for payment of the cost of medicare cost-sharing under the medicaid program pursuant to sections 1902(a)(10)(E) and 1933; and

"(B) update any such information not less frequently than once per year.

"(2) INFORMATION IN PERIODIC UPDATES.—The periodic updates described in paragraph (1)(B) shall include information on individuals who are or may be eligible for the medical assistance described in paragraph (1)(A) because such individuals have experienced reductions in benefits under title II.".

(2) AMENDMENT TO TITLE XIX.—Section 1905(p) (42 U.S.C. 1396d(p)), as amended by section 710(a), is amended by adding at the end the following new paragraph:

"(6) For provisions relating to outreach efforts to increase awareness of the availability of medicare cost-sharing, see section 1144.".

(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study of the impact of section 1144 of the Social Security Act (as added by subsection (a)(1)) on the enrollment of individuals for medicare cost-sharing under the medicaid program. Not later than 18 months after the date that the Commissioner of Social Security first conducts outreach under section 1144 of such Act, the Comptroller General shall submit to Congress a report on such study. The report shall include such recommendations for legislative changes as the Comptroller General deems appropriate.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.

Subtitle C—Maternal and Child Health Block Grant

SEC. 921. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.

(a) IN GENERAL.—Section 501(a) (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1) by striking "$705,000,000 for fiscal year 1994" and inserting "$850,000,000 for fiscal year 2001".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2000.

Subtitle D—Diabetes

SEC. 931. INCREASE IN APPROPRIATIONS FOR SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b) of the Public Health Service Act (42 U.S.C. 254c–2(b)) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(1) TRANSFERRED FUNDS.—Notwithstanding"; and

(2) by adding at the end the following:

"(2) APPROPRIATIONS.—For the purpose of making grants under this section, there is appropriated, out of any funds in the Treasury not otherwise appropriated—

"(A) $70,000,000 for each of fiscal years 2001 and 2002 (which shall be combined with amounts transferred under paragraph (1) for each such fiscal years); and

"(B) $100,000,000 for fiscal year 2003.".

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c) of such Act (42 U.S.C. 254c–3(c)) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(1) TRANSFERRED FUNDS.—Notwithstanding"; and

(2) by adding at the end the following:

"(2) APPROPRIATIONS.—For the purpose of making grants under this section, there is appropriated, out of any money in the Treasury not otherwise appropriated—

"(A) $70,000,000 for each of fiscal years 2001 and 2002 (which shall be combined with amounts transferred under paragraph (1) for each such fiscal years); and

"(B) $100,000,000 for fiscal year 2003.".

(c) EXTENSION OF FINAL REPORT ON GRANT PROGRAMS.—Section 4923(b)(2) of BBA is amended by striking "2002" and inserting "2003".

SEC. 932. APPROPRIATIONS FOR RICKY RAY HEMOPHILIA RELIEF FUND.

Section 101(e) of the Ricky Ray Hemophilia Relief Fund Act of 1998 (42 U.S.C. 300c–22 note) is amended by adding at the end the following: "There is appropriated to the Fund $475,000,000 for fiscal year 2001, to remain available until expended.".

Subtitle E—Information on Nurse Staffing

SEC. 941. POSTING OF INFORMATION ON NURSING FACILITY STAFFING.

(a) MEDICARE.—Section 1819(b) (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

"(8) INFORMATION ON NURSE STAFFING.—

"(A) IN GENERAL.—A skilled nursing facility shall post daily for each shift the current number of licensed and unlicensed nursing staff directly responsible for resident care in the facility. The information shall be displayed

in a uniform manner (as specified by the Secretary) and in a clearly visible place.

"(B) PUBLICATION OF DATA.—A skilled nursing facility shall, upon request, make available to the public the nursing staff data described in subparagraph (A).".

(b) MEDICAID.—Section 1919(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new paragraph:

"(8) INFORMATION ON NURSE STAFFING.—

"(A) IN GENERAL.—A nursing facility shall post daily for each shift the current number of licensed and unlicensed nursing staff directly responsible for resident care in the facility. The information shall be displayed in a uniform manner (as specified by the Secretary) and in a clearly visible place.

"(B) PUBLICATION OF DATA.—A nursing facility shall, upon request, make available to the public the nursing staff data described in subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

Subtitle F—Adjustment of Multiemployer Plan Benefits Guaranteed

SEC. 951. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.

(a) IN GENERAL.—Section 4022A(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322a(c)) is amended—

(1) by striking "$5" each place it appears in paragraph (1) and inserting "$11";

(2) by striking "$15" in paragraph (1)(A)(i) and inserting "$33"; and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any multiemployer plan that has not received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

APPENDIX G—H.R. 5662

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Community Renewal Tax Relief Act of 2000".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—COMMUNITY RENEWAL AND NEW MARKETS

Subtitle A—Tax Incentives for Renewal Communities

Sec. 101. Designation of and tax incentives for renewal communities.
Sec. 102. Work opportunity credit for hiring youth residing in renewal communities.

Subtitle B—Extension and Expansion of Empowerment Zone Incentives

Sec. 111. Authority to designate nine additional empowerment zones.
Sec. 112. Extension of empowerment zone treatment through 2009.
Sec. 113. Twenty percent employment credit for all empowerment zones.
Sec. 114. Increased expensing under section 179.
Sec. 115. Higher limits on tax-exempt empowerment zone facility bonds.
Sec. 116. Nonrecognition of gain on rollover of empowerment zone investments.
Sec. 117. Increased exclusion of gain on sale of empowerment zone stock.

Subtitle C—New Markets Tax Credit

Sec. 121. New markets tax credit.

Subtitle D—Improvements in Low-Income Housing Credit

Sec. 131. Modification of State ceiling on low-income housing credit.
Sec. 132. Modification of criteria for allocating housing credits among projects.
Sec. 133. Additional responsibilities of housing credit agencies.
Sec. 134. Modifications to rules relating to basis of building which is eligible for credit.
Sec. 135. Other modifications.
Sec. 136. Carryforward rules.
Sec. 137. Effective date.

Subtitle E—Other Community Renewal and New Markets Assistance

PART I—PROVISIONS RELATING TO HOUSING AND SUBSTANCE ABUSE PREVENTION AND TREATMENT

Sec. 141. Transfer of unoccupied and substandard HUD-held housing to local governments and community development corporations.
Sec. 142. Transfer of HUD assets in revitalization areas.
Sec. 143. Risk-sharing demonstration.
Sec. 144. Prevention and treatment of substance abuse; services provided through religious organizations.

PART II—ADVISORY COUNCIL ON COMMUNITY RENEWAL

Sec. 151. Short title.

Sec. 152. Establishment.
Sec. 153. Duties of Advisory Council.
Sec. 154. Membership.
Sec. 155. Powers of Advisory Council.
Sec. 156. Reports.
Sec. 157. Termination.
Sec. 158. Applicability of Federal Advisory Committee Act.
Sec. 159. Resources.
Sec. 160. Effective date.

Subtitle F—Other Provisions

Sec. 161. Acceleration of phase-in of increase in volume cap on private activity bonds.
Sec. 162. Modifications to expensing of environmental remediation costs.
Sec. 163. Extension of DC homebuyer tax credit.
Sec. 164. Extension of DC Zone through 2003.
Sec. 165. Extension of enhanced deduction for corporate donations of computer technology.
Sec. 166. Treatment of Indian tribal governments under Federal Unemployment Tax Act.

TITLE II—TWO-YEAR EXTENSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS

Sec. 201. Two-year extension of availability of medical savings accounts.
Sec. 202. Medical savings accounts renamed as Archer MSAs.

TITLE III—ADMINISTRATIVE AND TECHNICAL PROVISIONS

Subtitle A—Administrative Provisions

Sec. 301. Exemption of certain reporting requirements.
Sec. 302. Extension of deadlines for IRS compliance with certain notice requirements.
Sec. 303. Extension of authority for undercover operations.
Sec. 304. Confidentiality of certain documents relating to closing and similar agreements and to agreements with foreign governments.
Sec. 305. Increase in threshold for Joint Committee reports on refunds and credits.
Sec. 306. Treatment of missing children with respect to certain tax benefits.
Sec. 307. Amendments to statutes referencing yield on 52-week Treasury bills.
Sec. 308. Adjustments for Consumer Price Index error.
Sec. 309. Prevention of duplication of loss through assumption of liabilities giving rise to a deduction.
Sec. 310. Disclosure of certain information to Congressional Budget Office.

Subtitle B—Technical Corrections

Sec. 311. Amendments related to Ticket to Work and Work Incentives Improvement Act of 1999.
Sec. 312. Amendments related to Tax and Trade Relief Extension Act of 1998.
Sec. 313. Amendments related to Internal Revenue Service Restructuring and Reform Act of 1998.
Sec. 314. Amendments related to Taxpayer Relief Act of 1997.
Sec. 315. Amendments related to Balanced Budget Act of 1997.
Sec. 316. Amendments related to Small Business Job Protection Act of 1996.
Sec. 317. Amendment related to Revenue Reconciliation Act of 1990.
Sec. 318. Other technical corrections.
Sec. 319. Clerical changes.

TITLE IV—TAX TREATMENT OF SECURITIES FUTURES CONTRACTS

Sec. 401. Tax treatment of securities futures contracts.

TITLE I—COMMUNITY RENEWAL AND NEW MARKETS

Subtitle A—Tax Incentives for Renewal Communities

SEC. 101. DESIGNATION OF AND TAX INCENTIVES FOR RENEWAL COMMUNITIES.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter X—Renewal Communities

"Part I. Designation.
"Part II. Renewal community capital gain; renewal community business.
"Part III. Additional incentives.

"PART I—DESIGNATION

"Sec. 1400E. Designation of renewal communities.

"SEC. 1400E. DESIGNATION OF RENEWAL COMMUNITIES.

"(a) DESIGNATION.—

"(1) DEFINITIONS.—For purposes of this title, the term 'renewal community' means any area—

"(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a renewal community (hereafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development designates as a renewal community, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

"(2) NUMBER OF DESIGNATIONS.—

"(A) IN GENERAL.—Not more than 40 nominated areas may be designated as renewal communities.

"(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under paragraph (1), at least 12 must be areas—

"(i) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000,

"(ii) which are outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(iii) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(3) AREAS DESIGNATED BASED ON DEGREE OF POVERTY, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the nominated areas designated as renewal

communities under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

"(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC.—An area shall not be designated under subparagraph (A) if the Secretary of Housing and Urban Development determines that the course of action described in subsection (d)(2) with respect to such area is inadequate.

"(C) PREFERENCE FOR ENTERPRISE COMMUNITIES AND EMPOWERMENT ZONES.—With respect to the first 20 designations made under this section, a preference shall be provided to those nominated areas which are enterprise communities or empowerment zones (and are otherwise eligible for designation under this section).

"(4) LIMITATION ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—The Secretary of Housing and Urban Development shall prescribe by regulation no later than 4 months after the date of the enactment of this section, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of a renewal community, and

"(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development may designate nominated areas as renewal communities only during the period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed and ending on December 31, 2001.

"(C) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation of a nominated area as a renewal community under paragraph (2) unless—

"(i) the local governments and the States in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a renewal community,

"(II) to make the State and local commitments described in subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe, and

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate.

"(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—For purposes of this subchapter, in the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be treated as being both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a renewal community shall remain in effect during the period beginning on January 1, 2002, and ending on the earliest of—

"(A) December 31, 2009,

"(B) the termination date designated by the State and local governments in their nomination, or

"(C) the date the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located—

"(A) has modified the boundaries of the area, or

"(B) is not complying substantially with, or fails to make progress in achieving, the State or local commitments, respectively, described in subsection (d).

"(3) EARLIER TERMINATION OF CERTAIN BENEFITS IF EARLIER TERMINATION OF DESIGNATION.—If the designation of an area as a renewal community terminates before December 31, 2009, the day after the date of such termination shall be substituted for 'January 1, 2010' each place it appears in sections 1400F and 1400J with respect to such area.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as a renewal community under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of one or more local governments,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population of not more than 200,000 and at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) which has a population of 50,000 or greater, or

"(II) 1,000 in any other case, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the State and the local governments in which it is located certify in writing (and the

Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification) that—

"(A) the area is one of pervasive poverty, unemployment, and general distress,

"(B) the unemployment rate in the area, as determined by the most recent available data, was at least 1½ times the national unemployment rate for the period to which such data relate,

"(C) the poverty rate for each population census tract within the nominated area is at least 20 percent, and

"(D) in the case of an urban area, at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(4) CONSIDERATION OF OTHER FACTORS.—The Secretary of Housing and Urban Development, in selecting any nominated area for designation as a renewal community under this section—

"(A) shall take into account—

"(i) the extent to which such area has a high incidence of crime, or

"(ii) if such area has census tracts identified in the May 12, 1998, report of the General Accounting Office regarding the identification of economically distressed areas, and

"(B) with respect to 1 of the areas to be designated under subsection (a)(2)(B), may, in lieu of any criteria described in paragraph (3), take into account the existence of outmigration from the area.

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate any nominated area as a renewal community under subsection (a) only if—

"(A) the local government and the State in which the area is located agree in writing that, during any period during which the area is a renewal community, such governments will follow a specified course of action which meets the requirements of paragraph (2) and is designed to reduce the various burdens borne by employers or employees in such area, and

"(B) the economic growth promotion requirements of paragraph (3) are met.

"(2) COURSE OF ACTION.—

"(A) IN GENERAL.—A course of action meets the requirements of this paragraph if such course of action is a written document, signed by a State (or local government) and neighborhood organizations, which evidences a partnership between such State or government and community-based organizations and which commits each signatory to specific and measurable goals, actions, and timetables. Such course of action shall include at least 4 of the following:

"(i) A reduction of tax rates or fees applying within the renewal community.

"(ii) An increase in the level of efficiency of local services within the renewal community.

"(iii) Crime reduction strategies, such as crime prevention (including the provision of crime prevention services by nongovernmental entities).

"(iv) Actions to reduce, remove, simplify, or streamline governmental requirements applying within the renewal community.

"(v) Involvement in the program by private entities, organizations, neighborhood organizations, and community groups, particularly those in the renewal community, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents from the renewal community.

"(vi) The gift (or sale at below fair market value) of surplus real property (such as land, homes, and commercial or industrial structures) in the renewal community to neighborhood organizations, community development corporations, or private companies.

"(B) RECOGNITION OF PAST EFFORTS.—For purposes of this section, in evaluating the course of action agreed to by any State or local government, the Secretary of Housing and Urban Development shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(3) ECONOMIC GROWTH PROMOTION REQUIREMENTS.—The economic growth promotion requirements of this paragraph are met with respect to a nominated area if the local government and the State in which such area is located certify in writing that such government and State (respectively) have repealed or reduced, will not enforce, or will reduce within the nominated area at least 4 of the following:

"(A) Licensing requirements for occupations that do not ordinarily require a professional degree.

"(B) Zoning restrictions on home-based businesses which do not create a public nuisance.

"(C) Permit requirements for street vendors who do not create a public nuisance.

"(D) Zoning or other restrictions that impede the formation of schools or child care centers.

"(E) Franchises or other restrictions on competition for businesses providing public services, including taxicabs, jitneys, cable television, or trash hauling.

This paragraph shall not apply to the extent that such regulation of businesses and occupations is necessary for and well-tailored to the protection of health and safety.

"(e) COORDINATION WITH TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—For purposes of this title, the designation under section 1391 of any area as an empowerment zone or enterprise community shall cease to be in effect as of the date that the designation of any portion of such area as a renewal community takes effect.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as a renewal community, any reference to, or requirement of, this section shall apply to all such governments.

"(2) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development.

"(3) APPLICATION OF RULES RELATING TO CENSUS TRACTS.—The rules of section 1392(b)(4) shall apply.

"(4) CENSUS DATA.—Population and poverty rate shall be determined by using 1990 census data.

"PART II—RENEWAL COMMUNITY CAPITAL GAIN; RENEWAL COMMUNITY BUSINESS

"Sec. 1400F. Renewal community capital gain.
"Sec. 1400G. Renewal community business defined.

"SEC. 1400F. RENEWAL COMMUNITY CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include any qualified capital gain from the sale or exchange of a qualified community asset held for more than 5 years.

"(b) QUALIFIED COMMUNITY ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified community asset' means—

"(A) any qualified community stock,

"(B) any qualified community partnership interest, and

"(C) any qualified community business property.

"(2) QUALIFIED COMMUNITY STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified community stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer after December 31, 2001, and before January 1, 2010, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was a renewal community business (or, in the case of a new corporation, such corporation was being organized for purposes of being a renewal community business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a renewal community business.

"(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

"(3) QUALIFIED COMMUNITY PARTNERSHIP INTEREST.—The term 'qualified community partnership interest' means any capital or profits interest in a domestic partnership if—

"(A) such interest is acquired by the taxpayer after December 31, 2001, and before January 1, 2010, from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was a renewal community business (or, in the case of a new partnership, such partnership was being organized for purposes of being a renewal community business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a renewal community business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

"(4) QUALIFIED COMMUNITY BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified community business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2001, and before January 1, 2010,

"(ii) the original use of such property in the renewal community commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a renewal community business of the taxpayer.

"(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

"(i) property which is substantially improved by the taxpayer before January 1, 2010, and

"(ii) any land on which such property is located.

The determination of whether a property is substantially improved shall be made under clause (ii) of section 1400B(b)(4)(B), except that 'December 31, 2001' shall be substituted for 'December 31, 1997' in such clause.

"(c) QUALIFIED CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

"(A) a capital asset, or

"(B) property used in the trade or business (as defined in section 1231(b)).

"(2) GAIN BEFORE 2002 OR AFTER 2014 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before January 1, 2002, or after December 31, 2014.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3), (4), and (5) of section 1400B(e) shall apply for purposes of this subsection.

"(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of paragraphs (5), (6), and (7) of subsection (b), and subsections (f) and (g), of section 1400B shall apply; except that for such purposes section 1400B(g)(2) shall be applied by substituting 'January 1, 2002' for 'January 1, 1998' and 'December 31, 2014' for 'December 31, 2008'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the abuse of the purposes of this section.

"SEC. 1400G. RENEWAL COMMUNITY BUSINESS DEFINED.

"For purposes of this subchapter, the term 'renewal community business' means any entity or proprietorship which would be a qualified business entity or qualified proprietorship under section 1397C if references to renewal communities were substituted for references to empowerment zones in such section.

"PART III—ADDITIONAL INCENTIVES

"Sec. 1400H. Renewal community employment credit.
"Sec. 1400I. Commercial revitalization deduction.
"Sec. 1400J. Increase in expensing under section 179.

"SEC. 1400H. RENEWAL COMMUNITY EMPLOYMENT CREDIT.

"(a) IN GENERAL.—Subject to the modification in subsection (b), a renewal community shall be treated as an empowerment zone for purposes of section 1396 with respect to wages paid or incurred after December 31, 2001.

"(b) MODIFICATION.—In applying section 1396 with respect to renewal communities—

"(1) the applicable percentage shall be 15 percent, and

"(2) subsection (c) thereof shall be applied by substituting '$10,000' for '$15,000' each place it appears.

"SEC. 1400I. COMMERCIAL REVITALIZATION DEDUCTION.

"(a) GENERAL RULE.—At the election of the taxpayer, either—

"(1) one-half of any qualified revitalization expenditures chargeable to capital account with respect to any qualified revitalization building shall be allowable as a deduction for the taxable year in which the building is placed in service, or

"(2) a deduction for all such expenditures shall be allowable ratably over the 120-month period beginning with the month in which the building is placed in service.

"(b) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES.—For purposes of this section—

"(1) QUALIFIED REVITALIZATION BUILDING.—The term 'qualified revitalization building' means any building (and its structural components) if—

"(A) the building is placed in service by the taxpayer in a renewal community and the original use of the building begins with the taxpayer, or

"(B) in the case of such building not described in subparagraph (A), such building—

"(i) is substantially rehabilitated (within the meaning of section 47(c)(1)(C)) by the taxpayer, and

"(ii) is placed in service by the taxpayer after the rehabilitation in a renewal community.

"(2) QUALIFIED REVITALIZATION EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified revitalization expenditure' means any amount properly chargeable to capital account for property for which depreciation is allowable under section 168 (without regard to this section) and which is—

"(i) nonresidential real property (as defined in section 168(e)), or

"(ii) section 1250 property (as defined in section 1250(c)) which is functionally related and subordinate to property described in clause (i).

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—

"(i) ACQUISITION COST.—In the case of a building described in paragraph (1)(B), the cost of acquiring the building or interest therein shall be treated as a qualified revitalization expenditure only to the extent that such cost does not exceed 30 percent of the aggregate qualified revitalization expenditures (determined without regard to such cost) with respect to such building.

"(ii) CREDITS.—The term 'qualified revitalization expenditure' does not include any expenditure which the taxpayer may take into account in computing any credit allowable under this title unless the taxpayer elects to take the expenditure into account only for purposes of this section.

"(c) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building shall not exceed the lesser of—

"(1) $10,000,000, or

"(2) the commercial revitalization expenditure amount allocated to such building under this section by the commercial revitalization agency for the State in which the building is located.

"(d) COMMERCIAL REVITALIZATION EXPENDITURE AMOUNT.—

"(1) IN GENERAL.—The aggregate commercial revitalization expenditure amount which a commercial revitalization agency may allocate for any calendar year is the amount of the State commercial revitalization expenditure ceiling determined under this paragraph for such calendar year for such agency.

"(2) STATE COMMERCIAL REVITALIZATION EXPENDITURE CEILING.—The State commercial revitalization expenditure ceiling applicable to any State—

"(A) for each calendar year after 2001 and before 2010 is $12,000,000 for each renewal community in the State, and

"(B) for each calendar year thereafter is zero.

"(3) COMMERCIAL REVITALIZATION AGENCY.—For purposes of this section, the term 'commercial revitalization agency' means any agency authorized by a State to carry out this section.

"(4) TIME AND MANNER OF ALLOCATIONS.—Allocations under this section shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

"(e) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION AGENCIES.—

"(1) PLANS FOR ALLOCATION.—Notwithstanding any other provision of this section, the commercial revitalization expenditure amount with respect to any building shall be zero unless—

"(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization agency which is approved (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph

(B)(ii) thereof)) by the governmental unit of which such agency is a part, and

"(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such allocation and provides such individual a reasonable opportunity to comment on the allocation.

"(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

"(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization agency which are appropriate to local conditions,

"(B) which considers—

"(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for a renewal community through a citizen participation process,

"(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

"(iii) the active involvement of residents and nonprofit groups within the renewal community, and

"(C) which provides a procedure that the agency (or its agent) will follow in monitoring compliance with this section.

"(f) SPECIAL RULES.—

"(1) DEDUCTION IN LIEU OF DEPRECIATION.—The deduction provided by this section for qualified revitalization expenditures shall—

"(A) with respect to the deduction determined under subsection (a)(1), be in lieu of any depreciation deduction otherwise allowable on account of one-half of such expenditures, and

"(B) with respect to the deduction determined under subsection (a)(2), be in lieu of any depreciation deduction otherwise allowable on account of all of such expenditures.

"(2) BASIS ADJUSTMENT, ETC.—For purposes of sections 1016 and 1250, the deduction under this section shall be treated in the same manner as a depreciation deduction. For purposes of section 1250(b)(5), the straight line method of adjustment shall be determined without regard to this section.

"(3) SUBSTANTIAL REHABILITATIONS TREATED AS SEPARATE BUILDINGS.—A substantial rehabilitation (within the meaning of section 47(c)(1)(C)) of a building shall be treated as a separate building for purposes of subsection (a).

"(4) CLARIFICATION OF ALLOWANCE OF DEDUCTION UNDER MINIMUM TAX.—Notwithstanding section 56(a)(1), the deduction under this section shall be allowed in determining alternative minimum taxable income under section 55.

"(g) TERMINATION.—This section shall not apply to any building placed in service after December 31, 2009.

"SEC. 1400J. INCREASE IN EXPENSING UNDER SECTION 179.

"(a) IN GENERAL.—For purposes of section 1397A—

"(1) a renewal community shall be treated as an empowerment zone,

"(2) a renewal community business shall be treated as an enterprise zone business, and

"(3) qualified renewal property shall be treated as qualified zone property.

"(b) QUALIFIED RENEWAL PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified renewal property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2001, and before January 1, 2010, and

"(B) such property would be qualified zone property (as defined in section 1397D) if references to renewal communities were substituted for references to empowerment zones in section 1397D.

"(2) CERTAIN RULES TO APPLY.—The rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this section.".

(b) EXCEPTION FOR COMMERCIAL REVITALIZATION DEDUCTION FROM PASSIVE LOSS RULES.—

(1) Paragraph (3) of section 469(i) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) EXCEPTION FOR COMMERCIAL REVITALIZATION DEDUCTION.—Subparagraph (A) shall not apply to any portion of the passive activity loss for any taxable year which is attributable to the commercial revitalization deduction under section 1400I.".

(2) Subparagraph (E) of section 469(i)(3), as redesignated by subparagraph (A), is amended to read as follows:

"(E) ORDERING RULES TO REFLECT EXCEPTIONS AND SEPARATE PHASE-OUTS.—If subparagraph (B), (C), or (D) applies for a taxable year, paragraph (1) shall be applied—

"(i) first to the portion of the passive activity loss to which subparagraph (C) does not apply,

"(ii) second to the portion of the passive activity credit to which subparagraph (B) or (D) does not apply,

"(iii) third to the portion of such credit to which subparagraph (B) applies,

"(iv) fourth to the portion of such loss to which subparagraph (C) applies, and

"(v) then to the portion of such credit to which subparagraph (D) applies.".

(3)(A) Subparagraph (B) of section 469(i)(6) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) any deduction under section 1400I (relating to commercial revitalization deduction).".

(B) The heading for such subparagraph (B) is amended by striking "OR REHABILITATION CREDIT" and inserting ", REHABILITATION CREDIT, OR COMMERCIAL REVITALIZATION DEDUCTION".

(c) AUDIT AND REPORT.—Not later than January 31 of 2004, 2007, and 2010, the Comptroller General of the United States

shall, pursuant to an audit of the renewal community program established under section 1400E of the Internal Revenue Code of 1986 (as added by subsection (a)) and the empowerment zone and enterprise community program under subchapter U of chapter 1 of such Code, report to Congress on such program and its effect on poverty, unemployment, and economic growth within the designated renewal communities, empowerment zones, and enterprise communities.

(d) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

"Subchapter X. Renewal Communities.".

SEC. 102. WORK OPPORTUNITY CREDIT FOR HIRING YOUTH RESIDING IN RENEWAL COMMUNITIES.

(a) HIGH-RISK YOUTH.—Subparagraphs (A)(ii) and (B) of section 51(d)(5) are each amended by striking "empowerment zone or enterprise community" and inserting "empowerment zone, enterprise community, or renewal community".

(b) QUALIFIED SUMMER YOUTH EMPLOYEE.—Clause (iv) of section 51(d)(7)(A) is amended by striking "empowerment zone or enterprise community" and inserting "empowerment zone, enterprise community, or renewal community".

(c) HEADINGS.—Paragraphs (5)(B) and (7)(C) of section 51(d) are each amended by inserting "OR COMMUNITY" in the heading after "ZONE".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2001.

Subtitle B—Extension and Expansion of Empowerment Zone Incentives

SEC. 111. AUTHORITY TO DESIGNATE 9 ADDITIONAL EMPOWERMENT ZONES.

Section 1391 is amended by adding at the end the following new subsection:

"(h) ADDITIONAL DESIGNATIONS PERMITTED.—

"(1) IN GENERAL.—In addition to the areas designated under subsections (a) and (g), the appropriate Secretaries may designate in the aggregate an additional 9 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than seven may be designated in urban areas and not more than 2 may be designated in rural areas.

"(2) PERIOD DESIGNATIONS MAY BE MADE AND TAKE EFFECT.—A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 2002. Subject to subparagraphs (B) and (C) of subsection (d)(1), such designations shall remain in effect during the period beginning on January 1, 2002, and ending on December 31, 2009.

"(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC.—The rules of subsection (g)(3) shall apply to designations under this subsection.

"(4) EMPOWERMENT ZONES WHICH BECOME RENEWAL COMMUNITIES.—The number of areas which may be designated as empowerment zones under this subsection shall be increased by 1 for each area which ceases to be an empowerment zone by reason of section 1400E(e). Each additional area designated by reason of the preceding sentence shall have the same urban or rural character as the area it is replacing.".

SEC. 112. EXTENSION OF EMPOWERMENT ZONE TREATMENT THROUGH 2009.

Subparagraph (A) of section 1391(d)(1) (relating to period for which designation is in effect) is amended to read as follows:

"(A)(i) in the case of an empowerment zone, December 31, 2009, or

"(ii) in the case of an enterprise community, the close of the 10th calendar year beginning on or after such date of designation,".

SEC. 113. 20 PERCENT EMPLOYMENT CREDIT FOR ALL EMPOWERMENT ZONES.

(a) 20 PERCENT CREDIT.—Subsection (b) of section 1396 (relating to empowerment zone employment credit) is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage is 20 percent.".

(b) ALL EMPOWERMENT ZONES ELIGIBLE FOR CREDIT.—Section 1396 is amended by striking subsection (e).

(c) CONFORMING AMENDMENT.—Subsection (d) of section 1400 is amended to read as follows:

"(d) SPECIAL RULE FOR APPLICATION OF EMPLOYMENT CREDIT.—With respect to the DC Zone, section 1396(d)(1)(B) (relating to empowerment zone employment credit) shall be applied by substituting 'the District of Columbia' for 'such empowerment zone'.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 2001.

SEC. 114. INCREASED EXPENSING UNDER SECTION 179.

(a) IN GENERAL.—Subparagraph (A) of section 1397A(a)(1) is amended by striking "$20,000" and inserting "$35,000".

(b) EXPENSING FOR PROPERTY USED IN DEVELOPABLE SITES.—Section 1397A is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 115. HIGHER LIMITS ON TAX-EXEMPT EMPOWERMENT ZONE FACILITY BONDS.

(a) IN GENERAL.—Paragraph (3) of section 1394(f) (relating to bonds for empowerment zones designated under section 1391(g)) is amended to read as follows:

"(3) EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'empowerment zone facility bond' means any bond which would be described in subsection (a) if—

"(A) in the case of obligations issued before January 1, 2002, only empowerment zones designated under section 1391(g) were taken into account under sections 1397C and 1397D, and

"(B) in the case of obligations issued after December 31, 2001, all empowerment zones (other than the District of Columbia Enterprise Zone) were taken into account under sections 1397C and 1397D.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2001.

SEC. 116. NONRECOGNITION OF GAIN ON ROLLOVER OF EMPOWERMENT ZONE INVESTMENTS.

(a) IN GENERAL.—Part III of subchapter U of chapter 1 is amended—

(1) by redesignating subpart C as subpart D,

(2) by redesignating sections 1397B and 1397C as sections 1397C and 1397D, respectively, and

(3) by inserting after subpart B the following new subpart:

"Subpart C—Nonrecognition of Gain on Rollover of Empowerment Zone Investments

"Sec. 1397B. Nonrecognition of gain on rollover of empowerment zone investments.

"SEC. 1397B. NONRECOGNITION OF GAIN ON ROLLOVER OF EMPOWERMENT ZONE INVESTMENTS.

"(a) NONRECOGNITION OF GAIN.—In the case of any sale of a qualified empowerment zone asset held by the taxpayer for more than 1 year and with respect to which such taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any qualified empowerment zone asset (with respect to the same zone as the asset sold) purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED EMPOWERMENT ZONE ASSET.—

"(A) IN GENERAL.—The term 'qualified empowerment zone asset' means any property which would be a qualified community asset (as defined in section 1400F) if in section 1400F—

"(i) references to empowerment zones were substituted for references to renewal communities,

"(ii) references to enterprise zone businesses (as defined in section 1397C) were substituted for references to renewal community businesses, and

"(iii) the date of the enactment of this paragraph were substituted for 'December 31, 2001' each place it appears.

"(B) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this section.

"(2) CERTAIN GAIN NOT ELIGIBLE FOR ROLLOVER.—This section shall not apply to—

"(A) any gain which is treated as ordinary income for purposes of this subtitle, and

"(B) any gain which is attributable to real property, or an intangible asset, which is not an integral part of an enterprise zone business.

"(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

"(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified empowerment zone asset which is purchased by the taxpayer during the 60-day period described in subsection (a). This paragraph shall not apply for purposes of section 1202.

"(5) HOLDING PERIOD.—For purposes of determining whether the nonrecognition of gain under subsection (a) applies to any qualified empowerment zone asset which is sold—

"(A) the taxpayer's holding period for such asset and the asset referred to in subsection (a)(1) shall be determined without regard to section 1223, and

"(B) only the first year of the taxpayer's holding period for the asset referred to in subsection (a)(1) shall be taken into account for purposes of paragraphs (2)(A)(iii), (3)(C), and (4)(A)(iii) of section 1400F(b).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (23) of section 1016(a) is amended—

(A) by striking "or 1045" and inserting "1045, or 1397B", and

(B) by striking "or 1045(b)(4)" and inserting "1045(b)(4), or 1397B(b)(4)".

(2) Paragraph (15) of section 1223 is amended to read as follows:

"(15) Except for purposes of sections 1202(a)(2), 1202(c)(2)(A), 1400B(b), and 1400F(b), in determining the period for which the taxpayer has held property the acquisition of which resulted under section 1045 or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property has been held as of the date of such sale.".

(3) Paragraph (2) of section 1394(b) is amended—

(A) by striking "section 1397C" and inserting "section 1397D", and

(B) by striking "section 1397C(a)(2)" and inserting "section 1397D(a)(2)".

(4) Paragraph (3) of section 1394(b) is amended—

(A) by striking "section 1397B" each place it appears and inserting "section 1397C", and

(B) by striking "section 1397B(d)" and inserting "section 1397C(d)".

(5) Sections 1400(e) and 1400B(c) are each amended by striking "section 1397B" each place it appears and inserting "section 1397C".

(6) The table of subparts for part III of subchapter U of chapter 1 is amended by striking the last item and inserting the following new items:

"Subpart C. Nonrecognition of gain on rollover of empowerment zone investments.

"Subpart D. General provisions.".

(7) The table of sections for subpart D of such part III is amended to read as follows:

"Sec. 1397C. Enterprise zone business defined.

"Sec. 1397D. Qualified zone property defined.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified empowerment zone assets acquired after the date of the enactment of this Act.

SEC. 117. INCREASED EXCLUSION OF GAIN ON SALE OF EMPOWERMENT ZONE STOCK.

(a) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

"(a) EXCLUSION.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(2) EMPOWERMENT ZONE BUSINESSES.—

"(A) IN GENERAL.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer's holding period for such stock, paragraph (1) shall be applied by substituting '60 percent' for '50 percent'.

"(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

"(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

"(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (8) of section 1(h) is amended by striking "means" and all that follows and inserting "means the excess of—

"(A) the gain which would be excluded from gross income under section 1202 but for the percentage limitation in section 1202(a), over

"(B) the gain excluded from gross income under section 1202.".

(2) The section heading for section 1202 is amended by striking "**50-PERCENT**" and inserting "**PARTIAL**".

(3) The table of sections for part I of subchapter P of chapter 1 is amended by striking "50-percent" and inserting "Partial".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act.

Subtitle C—New Markets Tax Credit

SEC. 121. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45D. NEW MARKETS TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the qualified community development entity for such investment at its original issue.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) 5 percent with respect to the first 3 credit allowance dates, and

"(B) 6 percent with respect to the remainder of the credit allowance dates.

"(3) CREDIT ALLOWANCE DATE.—For purposes of paragraph (1), the term 'credit allowance date' means, with respect to any qualified equity investment—

"(A) the date on which such investment is initially made, and

"(B) each of the 6 anniversary dates of such date thereafter.

"(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a qualified community development entity if—

"(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

"(B) substantially all of such cash is used by the qualified community development entity to make qualified low-income community investments, and

"(C) such investment is designated for purposes of this section by the qualified community development entity.

Such term shall not include any equity investment issued by a qualified community development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

"(2) LIMITATION.—The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1)(C) by such entity

shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

"(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

"(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

"(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

"(6) EQUITY INVESTMENT.—The term 'equity investment' means—

"(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

"(B) any capital interest in an entity which is a partnership.

"(c) QUALIFIED COMMUNITY DEVELOPMENT ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified community development entity' means any domestic corporation or partnership if—

"(A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

"(B) the entity maintains accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory board to the entity, and

"(C) the entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

"(2) SPECIAL RULES FOR CERTAIN ORGANIZATIONS.—The requirements of paragraph (1) shall be treated as met by—

"(A) any specialized small business investment company (as defined in section 1044(c)(3)), and

"(B) any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

"(d) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified low-income community investment' means—

"(A) any capital or equity investment in, or loan to, any qualified active low-income community business,

"(B) the purchase from another qualified community development entity of any loan made by such entity which is a qualified low-income community investment,

"(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

"(D) any equity investment in, or loan to, any qualified community development entity.

"(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income community business' means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

"(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

"(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

"(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

"(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

"(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

"(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—The term 'qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

"(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 1397C(d); except that—

"(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as a qualified business if there are substantial improvements located on such property, and

"(B) paragraph (3) thereof shall not apply.

"(e) LOW-INCOME COMMUNITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'low-income community' means any population census tract if—

"(A) the poverty rate for such tract is at least 20 percent, or

"(B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

"(ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

Subparagraph (B) shall be applied using possessionwide median family income in the case of census tracts located within a possession of the United States.

"(2) TARGETED AREAS.—The Secretary may designate any area within any census tract as a low-income community if—

"(A) the boundary of such area is continuous,

"(B) the area would satisfy the requirements of paragraph (1) if it were a census tract, and

"(C) an inadequate access to investment capital exists in such area.

"(3) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income.

"(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

"(1) IN GENERAL.—There is a new markets tax credit limitation for each calendar year. Such limitation is—

"(A) $1,000,000,000 for 2001,

"(B) $1,500,000,000 for 2002 and 2003,

"(C) $2,000,000,000 for 2004 and 2005, and

"(D) $3,500,000,000 for 2006 and 2007.

"(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified community development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

"(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

"(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income community investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

"(3) CARRYOVER OF UNUSED LIMITATION.—If the new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

"(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

"(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a qualified community development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

"(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

"(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

"(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a qualified community development entity if—

"(A) such entity ceases to be a qualified community development entity,

"(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

"(C) such investment is redeemed by such entity.

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

"(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

"(2) which prevent the abuse of the purposes of this section,

"(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

"(4) which impose appropriate reporting requirements, and

"(5) which apply the provisions of this section to newly formed entities.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the new markets tax credit determined under section 45D(a).".

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(9) NO CARRYBACK OF NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2001.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45D may be carried back to a taxable year ending before January 1, 2001.".

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", and", and by adding at the end the following new paragraph:

"(9) the new markets tax credit determined under section 45D(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. New markets tax credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2000.

(f) GUIDANCE ON ALLOCATION OF NATIONAL LIMITATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall issue guidance which specifies—

(1) how entities shall apply for an allocation under section 45D(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) AUDIT AND REPORT.—Not later than January 31 of 2004, 2007, and 2010, the Comptroller General of the United States shall, pursuant to an audit of the new markets tax credit program established under section 45D of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all qualified community development entities that receive an allocation under the new markets credit under such section.

Subtitle D—Improvements in Low-Income Housing Credit

SEC. 131. MODIFICATION OF STATE CEILING ON LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Clauses (i) and (ii) of section 42(h)(3)(C) (relating to State housing credit ceiling) are amended to read as follows:

"(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

"(ii) the greater of—

"(I) $1.75 ($1.50 for 2001) multiplied by the State population, or

"(II) $2,000,000,".

(b) ADJUSTMENT OF STATE CEILING FOR INCREASES IN COST-OF-LIVING.—Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies) is amended by adding at the end the following new subparagraph:

"(H) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of a calendar year after 2002, the $2,000,000 and $1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—

"(I) In the case of the $2,000,000 amount, any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(II) In the case of the $1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.".

(c) CONFORMING AMENDMENTS.—

(1) Section 42(h)(3)(C), as amended by subsection (a), is amended—

(A) by striking "clause (ii)" in the matter following clause (iv) and inserting "clause (i)"; and

(B) by striking "clauses (i)" in the matter following clause (iv) and inserting "clauses (ii)".

(2) Section 42(h)(3)(D)(ii) is amended—

(A) by striking "subparagraph (C)(ii)" and inserting "subparagraph (C)(i)"; and

(B) by striking "clauses (i)" in subclause (II) and inserting "clauses (ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2000.

SEC. 132. MODIFICATION OF CRITERIA FOR ALLOCATING HOUSING CREDITS AMONG PROJECTS.

(a) SELECTION CRITERIA.—Subparagraph (C) of section 42(m)(1) (relating to certain selection criteria must be used) is amended—

(1) by inserting ", including whether the project includes the use of existing housing as part of a community revitalization plan" before the comma at the end of clause (iii); and

(2) by striking clauses (v), (vi), and (vii) and inserting the following new clauses:

"(v) tenant populations with special housing needs,

"(vi) public housing waiting lists,

"(vii) tenant populations of individuals with children, and

"(viii) projects intended for eventual tenant ownership.".

(b) PREFERENCE FOR COMMUNITY REVITALIZATION PROJECTS LOCATED IN QUALIFIED CENSUS TRACTS.—Clause (ii) of section 42(m)(1)(B) is amended by striking "and" at the end of subclause (I), by adding "and" at the end of subclause (II), and by inserting after subclause (II) the following new subclause:

"(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan,".

SEC. 133. ADDITIONAL RESPONSIBILITIES OF HOUSING CREDIT AGENCIES.

(a) MARKET STUDY; PUBLIC DISCLOSURE OF RATIONALE FOR NOT FOLLOWING CREDIT ALLOCATION PRIORITIES.—Subparagraph (A) of section 42(m)(1) (relating to responsibilities of housing credit agencies) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by adding at the end the following new clauses:

"(iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

"(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.".

(b) SITE VISITS.—Clause (iii) of section 42(m)(1)(B) (relating to qualified allocation plan) is amended by inserting before the period "and in monitoring for noncompliance with habitability standards through regular site visits".

SEC. 134. MODIFICATIONS TO RULES RELATING TO BASIS OF BUILDING WHICH IS ELIGIBLE FOR CREDIT.

(a) ADJUSTED BASIS TO INCLUDE PORTION OF CERTAIN BUILDINGS USED BY LOW-INCOME INDIVIDUALS WHO ARE NOT TENANTS AND BY PROJECT EMPLOYEES.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(1) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) INCLUSION OF BASIS OF PROPERTY USED TO PROVIDE SERVICES FOR CERTAIN NONTENANTS.—

"(i) IN GENERAL.—The adjusted basis of any building located in a qualified census tract (as defined in paragraph (5)(C)) shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation and not otherwise taken into account) used throughout the taxable year in providing any community service facility.

"(ii) LIMITATION.—The increase in the adjusted basis of any building which is taken into account by reason of clause (i) shall not exceed 10 percent of

the eligible basis of the qualified low-income housing project of which it is a part. For purposes of the preceding sentence, all community service facilities which are part of the same qualified low-income housing project shall be treated as one facility.

"(iii) COMMUNITY SERVICE FACILITY.—For purposes of this subparagraph, the term 'community service facility' means any facility designed to serve primarily individuals whose income is 60 percent or less of area median income (within the meaning of subsection (g)(1)(B)).".

(b) CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.—Subparagraph (E) of section 42(i)(2) (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (i), by inserting "or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on October 1, 1997)" after "this subparagraph)"; and

(2) in the subparagraph heading, by inserting "OR NATIVE AMERICAN HOUSING ASSISTANCE" after "HOME ASSISTANCE".

SEC. 135. OTHER MODIFICATIONS.

(a) ALLOCATION OF CREDIT LIMIT TO CERTAIN BUILDINGS.—

(1) The first sentence of section 42(h)(1)(E)(ii) is amended by striking "(as of" the first place it appears and inserting "(as of the later of the date which is 6 months after the date that the allocation was made or".

(2) The last sentence of section 42(h)(3)(C) is amended by striking "project which" and inserting "project which fails to meet the 10 percent test under paragraph (1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which".

(b) DETERMINATION OF WHETHER BUILDINGS ARE LOCATED IN HIGH COST AREAS.—The first sentence of section 42(d)(5)(C)(ii)(I) is amended—

(1) by inserting "either" before "in which 50 percent"; and

(2) by inserting before the period "or which has a poverty rate of at least 25 percent".

SEC. 136. CARRYFORWARD RULES.

(a) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of—

"(I) the unused State housing credit ceiling for the year preceding such year, over

"(II) the aggregate housing credit dollar amount allocated for such year.".

(b) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

SEC. 137. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to—

(1) housing credit dollar amounts allocated after December 31, 2000; and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

Subtitle E—Other Community Renewal and New Markets Assistance

PART I—PROVISIONS RELATING TO HOUSING AND SUBSTANCE ABUSE PREVENTION AND TREATMENT

SEC. 141. TRANSFER OF UNOCCUPIED AND SUBSTANDARD HUD-HELD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS.

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a) is amended—

(1) by striking "FLEXIBLE AUTHORITY.—" and inserting "DISPOSITION OF HUD-OWNED PROPERTIES. (a) FLEXIBLE AUTHORITY FOR MULTIFAMILY PROJECTS.—"; and

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

"(b) TRANSFER OF UNOCCUPIED AND SUBSTANDARD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS.—

"(1) TRANSFER AUTHORITY.—Notwithstanding the authority under subsection (a) and the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), the Secretary of Housing and Urban Development shall transfer ownership of any qualified HUD property, subject to the requirements of this section, to a unit of general local government having jurisdiction for the area in which the property is located or to a community development corporation which operates within such a unit of general local government in accordance with this subsection, but only to the extent that units of general local government and community development corporations consent to transfer and the Secretary determines that such transfer is practicable.

"(2) QUALIFIED HUD PROPERTIES.—For purposes of this subsection, the term 'qualified HUD property' means any property for which, as of the date that notification of the property is first made under paragraph (3)(B), not less than 6 months have elapsed since the later of the date that the property was acquired by the Secretary or the date that the property was determined to be unoccupied or substandard, that is owned by the Secretary and is—

"(A) an unoccupied multifamily housing project;

"(B) a substandard multifamily housing project; or

"(C) an unoccupied single family property that—

"(i) has been determined by the Secretary not to be an eligible asset under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)); or

"(ii) is an eligible asset under such section 204(h), but—

"(I) is not subject to a specific sale agreement under such section; and

"(II) has been determined by the Secretary to be inappropriate for continued inclusion in the program under such section 204(h) pursuant to paragraph (10) of such section.

"(3) TIMING.—The Secretary shall establish procedures that provide for—

"(A) time deadlines for transfers under this subsection;

"(B) notification to units of general local government and community development corporations of qualified HUD properties in their jurisdictions;

"(C) such units and corporations to express interest in the transfer under this subsection of such properties;

"(D) a right of first refusal for transfer of qualified HUD properties to units of general local government and community development corporations, under which—

"(i) the Secretary shall establish a period during which the Secretary may not transfer such properties except to such units and corporations;

"(ii) the Secretary shall offer qualified HUD properties that are single family properties for purchase by units of general local government at a cost of $1 for each property, but only to the extent that the costs to the Federal Government of disposal at such price do not exceed the costs to the Federal Government of disposing of property subject to the procedures for single family property established by the Secretary pursuant to the authority under the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g));

"(iii) the Secretary may accept an offer to purchase a property made by a community development corporation only if the offer provides for purchase on a cost recovery basis; and

"(iv) the Secretary shall accept an offer to purchase such a property that is made during such period by such a unit or corporation and that complies with the requirements of this paragraph; and

"(E) a written explanation, to any unit of general local government or community development corporation making an offer to purchase a qualified HUD property under this subsection that is not accepted, of the reason that such offer was not acceptable.

"(4) OTHER DISPOSITION.—With respect to any qualified HUD property, if the Secretary does not receive an acceptable offer to purchase the property pursuant to the procedure established under paragraph (3), the Secretary shall dispose of the property to the unit of general local government in which property is located or to community development corporations located in such unit of general local government on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate.

"(5) SATISFACTION OF INDEBTEDNESS.—Before transferring ownership of any qualified HUD property pursuant to this

subsection, the Secretary shall satisfy any indebtedness incurred in connection with the property to be transferred, by canceling the indebtedness.

"(6) DETERMINATION OF STATUS OF PROPERTIES.—To ensure compliance with the requirements of this subsection, the Secretary shall take the following actions:

"(A) UPON ENACTMENT.—Upon the enactment of this subsection, the Secretary shall promptly assess each residential property owned by the Secretary to determine whether such property is a qualified HUD property.

"(B) UPON ACQUISITION.—Upon acquiring any residential property, the Secretary shall promptly determine whether the property is a qualified HUD property.

"(C) UPDATES.—The Secretary shall periodically reassess the residential properties owned by the Secretary to determine whether any such properties have become qualified HUD properties.

"(7) TENANT LEASES.—This subsection shall not affect the terms or the enforceability of any contract or lease entered into with respect to any residential property before the date that such property becomes a qualified HUD property.

"(8) USE OF PROPERTY.—Property transferred under this subsection shall be used only for appropriate neighborhood revitalization efforts, including homeownership, rental units, commercial space, and parks, consistent with local zoning regulations, local building codes, and subdivision regulations and restrictions of record.

"(9) INAPPLICABILITY TO PROPERTIES MADE AVAILABLE FOR HOMELESS.—Notwithstanding any other provision of this subsection, this subsection shall not apply to any properties that the Secretary determines are to be made available for use by the homeless pursuant to subpart E of part 291 of title 24, Code of Federal Regulations, during the period that the properties are so available.

"(10) PROTECTION OF EXISTING CONTRACTS.—This subsection may not be construed to alter, affect, or annul any legally binding obligations entered into with respect to a qualified HUD property before the property becomes a qualified HUD property.

"(11) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) COMMUNITY DEVELOPMENT CORPORATION.—The term 'community development corporation' means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities for low-income families.

"(B) COST RECOVERY BASIS.—The term 'cost recovery basis' means, with respect to any sale of a residential property by the Secretary, that the purchase price paid by the purchaser is equal to or greater than the sum of: (i) the appraised value of the property, as determined in accordance with such requirements as the Secretary shall establish; and (ii) the costs incurred by the Secretary in connection with such property during the period beginning on the date on which the Secretary acquires title to the property and ending on the date on which the sale is consummated.

"(C) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' has the meaning given the term in section 203 of the Housing and Community Development Amendments of 1978.

"(D) RESIDENTIAL PROPERTY.—The term 'residential property' means a property that is a multifamily housing project or a single family property.

"(E) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(F) SEVERE PHYSICAL PROBLEMS.—The term 'severe physical problems' means, with respect to a dwelling unit, that the unit—

"(i) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

"(ii) on not less than three separate occasions during the preceding winter months, was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

"(iii) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced three or more blown fuses or tripped circuit breakers during the preceding 90-day period;

"(iv) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

"(v) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

"(G) SINGLE FAMILY PROPERTY.—The term 'single family property' means a 1- to 4-family residence.

"(H) SUBSTANDARD.—The term 'substandard' means, with respect to a multifamily housing project, that 25 percent or more of the dwelling units in the project have severe physical problems.

"(I) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning given such term in section 102(a) of the Housing and Community Development Act of 1974.

"(J) UNOCCUPIED.—The term 'unoccupied' means, with respect to a residential property, that the unit of general local government having jurisdiction over the area in which the project is located has certified in writing that the property is not inhabited.

"(12) REGULATIONS.—

"(A) INTERIM.—Not later than 30 days after the date of the enactment of this subsection, the Secretary shall issue such interim regulations as are necessary to carry out this subsection.

"(B) FINAL.—Not later than 60 days after the date of the enactment of this subsection, the Secretary shall issue such final regulations as are necessary to carry out this subsection.".

SEC. 142. TRANSFER OF HUD ASSETS IN REVITALIZATION AREAS.

In carrying out the program under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)), upon the request of the chief executive officer of a county or the government of appropriate jurisdiction and not later than 60 days after such request is made, the Secretary of Housing and Urban Development shall designate as a revitalization area all portions of such county that meet the criteria for such designation under paragraph (3) of such section.

SEC. 143. RISK-SHARING DEMONSTRATION.

Section 249 of the National Housing Act (12 U.S.C. 1715z–14) is amended—

(1) by striking the section heading and inserting the following:

"RISK-SHARING DEMONSTRATION";

(2) by striking "reinsurance" each place such term appears and insert "risk-sharing";

(3) in subsection (a)—

(A) in the first sentence, by inserting "and with insured community development financial institutions" after "private mortgage insurers";

(B) in the second sentence—

(i) by striking "two" and inserting "four"; and

(ii) by striking "March 15, 1988" and inserting "the expiration of the 5-year period beginning on the date of the enactment of the Community Renewal Tax Relief Act of 2000"; and

(C) in the third sentence—

(i) by striking "insured" and inserting "for which risk of nonpayment is shared"; and

(ii) by striking "10 percent" and inserting "20 percent";

(4) in subsection (b)—

(A) in the first sentence—

(i) by striking "to provide" and inserting ", in providing";

(ii) by striking "through" and inserting ", to enter into"; and

(iii) by inserting "and with insured community development financial institutions" before the period at the end;

(B) in the second sentence, by inserting "and insured community development financial institutions" after "private mortgage insurance companies";

(C) by striking paragraph (1) and inserting the following new paragraph:

"(1) assume a secondary percentage of loss on any mortgage insured pursuant to section 203(b), 234, or 245 covering a one- to four-family dwelling, which percentage of loss shall be set forth in the risk-sharing contract, with the first percentage of loss to be borne by the Secretary;"; and

(D) in paragraph (2)—

(i) by striking "carry out (under appropriate delegation) such" and inserting "perform or delegate underwriting,";

(ii) by striking "function as the Secretary pursuant to regulations," and inserting "functions as the Secretary"; and

(iii) by inserting before the period at the end the following: "and shall set forth in the risk-sharing contract";

(5) in subsection (c)—

(A) in the first sentence—

(i) by striking "of" the first place it appears and inserting "for";

(ii) by inserting "received by the Secretary with a private mortgage insurer or insured community development financial institution" after "sharing of premiums";

(iii) by striking "insurance reserves" and inserting "loss reserves";

(iv) by striking "such insurance" and inserting "such risk-sharing contract"; and

(v) by striking "right" and inserting "rights"; and

(B) in the second sentence—

(i) by inserting "or insured community development financial institution" after "private mortgage insurance company"; and

(ii) by striking "for insurance" and inserting "for risk-sharing";

(6) in subsection (d), by inserting "or insured community development financial institution" after "private mortgage insurance company"; and

(7) by adding at the end the following new subsection:

"(e) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—For purposes of this section, the term 'insured community development financial institution' means a community development financial institution, as such term is defined in section 103 of Reigle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702) that is an insured depository institution (as such term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or an insured credit union (as such term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).".

SEC. 144. PREVENTION AND TREATMENT OF SUBSTANCE ABUSE; SERVICES PROVIDED THROUGH RELIGIOUS ORGANIZATIONS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following part:

"PART G—SERVICES PROVIDED THROUGH RELIGIOUS ORGANIZATIONS

"SEC. 581. APPLICABILITY TO DESIGNATED PROGRAMS.

"(a) DESIGNATED PROGRAMS.—Subject to subsection (b), this part applies to discretionary and formula grant programs administered by the Substance Abuse and Mental Health Services Administration that make awards of financial assistance to public or private entities for the purpose of carrying out activities to prevent or treat substance abuse (in this part referred to as a 'designated program'). Designated programs include the program under subpart II of part B of title XIX (relating to formula grants to the States).

"(b) LIMITATION.—This part does not apply to any award of financial assistance under a designated program for a purpose other than the purpose specified in subsection (a).

"(c) DEFINITIONS.—For purposes of this part (and subject to subsection (b)):

"(1) The term 'designated program' has the meaning given such term in subsection (a).

"(2) The term 'financial assistance' means a grant, cooperative agreement, or contract.

"(3) The term 'program beneficiary' means an individual who receives program services.

"(4) The term 'program participant' means a public or private entity that has received financial assistance under a designated program.

"(5) The term 'program services' means treatment for substance abuse, or preventive services regarding such abuse, provided pursuant to an award of financial assistance under a designated program.

"(6) The term 'religious organization' means a nonprofit religious organization.

"SEC. 582. RELIGIOUS ORGANIZATIONS AS PROGRAM PARTICIPANTS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a religious organization, on the same basis as any other nonprofit private provider—

"(1) may receive financial assistance under a designated program; and

"(2) may be a provider of services under a designated program.

"(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow religious organizations to be program participants on the same basis as any other nonprofit private provider without impairing the religious character of such organizations, and without diminishing the religious freedom of program beneficiaries.

"(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—

"(1) ELIGIBILITY AS PROGRAM PARTICIPANTS.—Religious organizations are eligible to be program participants on the same basis as any other nonprofit private organization as long as the programs are implemented consistent with the Establishment Clause and Free Exercise Clause of the First Amendment to the United States Constitution. Nothing in this Act shall be construed to restrict the ability of the Federal Government, or a State or local government receiving funds under such programs, to apply to religious organizations the same eligibility conditions in designated programs as are applied to any other nonprofit private organization.

"(2) NONDISCRIMINATION.—Neither the Federal Government nor a State or local government receiving funds under designated programs shall discriminate against an organization that is or applies to be a program participant on the basis that the organization has a religious character.

"(d) RELIGIOUS CHARACTER AND FREEDOM.—

"(1) RELIGIOUS ORGANIZATIONS.—Except as provided in this section, any religious organization that is a program participant shall retain its independence from Federal, State, and local

government, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

"(A) alter its form of internal governance; or

"(B) remove religious art, icons, scripture, or other symbols,

in order to be a program participant.

"(e) EMPLOYMENT PRACTICES.—Nothing in this section shall be construed to modify or affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment. A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 regarding employment practices shall not be affected by its participation in, or receipt of funds from, a designated program.

"(f) RIGHTS OF PROGRAM BENEFICIARIES.—

"(1) IN GENERAL.—If an individual who is a program beneficiary or a prospective program beneficiary objects to the religious character of a program participant, within a reasonable period of time after the date of such objection such program participant shall refer such individual to, and the appropriate Federal, State, or local government that administers a designated program or is a program participant shall provide to such individual (if otherwise eligible for such services), program services that—

"(A) are from an alternative provider that is accessible to, and has the capacity to provide such services to, such individual; and

"(B) have a value that is not less than the value of the services that the individual would have received from the program participant to which the individual had such objection.

Upon referring a program beneficiary to an alternative provider, the program participant shall notify the appropriate Federal, State, or local government agency that administers the program of such referral.

"(2) NOTICES.—Program participants, public agencies that refer individuals to designated programs, and the appropriate Federal, State, or local governments that administer designated programs or are program participants shall ensure that notice is provided to program beneficiaries or prospective program beneficiaries of their rights under this section.

"(3) ADDITIONAL REQUIREMENTS.—A program participant making a referral pursuant to paragraph (1) shall—

"(A) prior to making such referral, consider any list that the State or local government makes available of entities in the geographic area that provide program services; and

"(B) ensure that the individual makes contact with the alternative provider to which the individual is referred.

"(4) NONDISCRIMINATION.—A religious organization that is a program participant shall not in providing program services or engaging in outreach activities under designated programs discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

"(g) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization that is a program participant shall be subject to the same regulations as other recipients of awards of Federal financial assistance to account, in accordance with generally accepted auditing principles, for the use of the funds provided under such awards.

"(2) LIMITED AUDIT.—With respect to the award involved, a religious organization that is a program participant shall segregate Federal amounts provided under award into a separate account from non-Federal funds. Only the award funds shall be subject to audit by the government.

"(h) COMPLIANCE.—With respect to compliance with this section by an agency, a religious organization may obtain judicial review of agency action in accordance with chapter 7 of title 5, United States Code.

"SEC. 583. LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.

"No funds provided under a designated program shall be expended for sectarian worship, instruction, or proselytization.

"SEC. 584. EDUCATIONAL REQUIREMENTS FOR PERSONNEL IN DRUG TREATMENT PROGRAMS.

"(a) FINDINGS.—The Congress finds that—

"(1) establishing unduly rigid or uniform educational qualification for counselors and other personnel in drug treatment programs may undermine the effectiveness of such programs; and

"(2) such educational requirements for counselors and other personnel may hinder or prevent the provision of needed drug treatment services.

"(b) NONDISCRIMINATION.—In determining whether personnel of a program participant that has a record of successful drug treatment for the preceding three years have satisfied State or local requirements for education and training, a State or local government shall not discriminate against education and training provided to such personnel by a religious organization, so long as such education and training includes basic content substantially equivalent to the content provided by nonreligious organizations that the State or local government would credit for purposes of determining whether the relevant requirements have been satisfied.".

PART II—ADVISORY COUNCIL ON COMMUNITY RENEWAL

SEC. 151. SHORT TITLE.

This part may be cited as the "Advisory Council on Community Renewal Act".

SEC. 152. ESTABLISHMENT.

There is established an advisory council to be known as the "Advisory Council on Community Renewal" (in this part referred to as the "Advisory Council").

SEC. 153. DUTIES OF ADVISORY COUNCIL.

The Advisory Council shall advise the Secretary of Housing and Urban Development (in this part referred to as the "Secretary")

on the designation of renewal communities pursuant to the amendment made by section 101 and on the exercise of any other authority granted to the Secretary pursuant to the amendments made by this title.

SEC. 154. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Advisory Council shall be composed of 7 members appointed by the Secretary.

(b) CHAIRPERSON.—The Chairperson of the Advisory Council (in this part referred to as the "Chairperson") shall be designated by the Secretary at the time of the appointment.

(c) TERMS.—Each member shall be appointed for the life of the Advisory Council.

(d) BASIC PAY.—

(1) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to the daily rate of basic pay for level III of the Executive Schedule for each day (including travel time) during which the Chairperson is engaged in the actual performance of duties vested in the Advisory Council.

(2) OTHER MEMBERS.—Members other than the Chairperson shall each be paid at a rate equal to the daily rate of basic pay for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Advisory Council.

(e) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(f) QUORUM.—Four members of the Advisory Council shall constitute a quorum but a lesser number may hold hearings.

(g) MEETINGS.—The Advisory Council shall meet at the call of the Secretary or the Chairperson.

SEC. 155. POWERS OF ADVISORY COUNCIL.

(a) HEARINGS AND SESSIONS.—The Advisory Council may, for the purpose of carrying out this part, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Advisory Council considers appropriate. The Advisory Council may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Advisory Council may, if authorized by the Advisory Council, take any action which the Advisory Council is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Advisory Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this part. Upon request of the Chairperson of the Advisory Council, the head of that department or agency shall furnish that information to the Advisory Council.

SEC. 156. REPORTS.

(a) ANNUAL REPORTS.—The Advisory Council shall submit to the Secretary an annual report for each fiscal year.

(b) INTERIM REPORTS.—The Advisory Council may submit to the Secretary such interim reports as the Advisory Council considers appropriate.

(c) FINAL REPORT.—The Advisory Council shall transmit a final report to the Secretary not later September 30, 2003. The final

report shall contain a detailed statement of the findings and conclusions of the Advisory Council, together with any recommendations for legislative or administrative action that the Advisory Council considers appropriate.

SEC. 157. TERMINATION.

(a) IN GENERAL.—The Advisory Council shall terminate 30 days after submitting its final report under section 156(c).

(b) EXTENSION.—Notwithstanding subsection (a), the Secretary may postpone the termination of the Advisory Council for a period not to exceed 3 years after the Advisory Council submits its final report under section 156(c).

SEC. 158. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.

SEC. 159. RESOURCES.

The Secretary shall provide to the Advisory Council appropriate resources so that the Advisory Council may carry out its duties and fuctions under this part.

SEC. 160. EFFECTIVE DATE.

This part shall be effective 30 days after the date of its enactment.

Subtitle F—Other Provisions

SEC. 161. ACCELERATION OF PHASE-IN OF INCREASE IN VOLUME CAP ON PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 146(d) (relating to State ceiling) are amended to read as follows:

"(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) an amount equal to $75 ($62.50 in the case of calendar year 2001) multiplied by the State population, or

"(B) $225,000,000 ($187,500,000 in the case of calendar year 2001).

"(2) COST-OF-LIVING ADJUSTMENT.—In the case of a calendar year after 2002, each of the dollar amounts contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5 ($5,000 in the case of the dollar amount in paragraph (1)(B)), such increase shall be rounded to the nearest multiple thereof.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 2000.

SEC. 162. MODIFICATIONS TO EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXPENSING NOT LIMITED TO SITES IN TARGETED AREAS.—Subsection (c) of section 198 is amended to read as follows:

"(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified contaminated site' means any area—

"(A) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(a)(1) in the hands of the taxpayer, and

"(B) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

"(2) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

"(3) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirement of paragraph (1)(B).

"(4) APPROPRIATE STATE AGENCY.—For purposes of paragraph (3), the chief executive officer of each State may, in consultation with the Administrator of the Environmental Protection Agency, designate the appropriate State environmental agency within 60 days of the date of the enactment of this section. If the chief executive officer of a State has not designated an appropriate environmental agency within such 60-day period, the appropriate environmental agency for such State shall be designated by the Administrator of the Environmental Protection Agency.".

(b) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking "2001" and inserting "2003".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 163. EXTENSION OF DC HOMEBUYER TAX CREDIT.

Section 1400C(i) (relating to application of section) is amended by striking "2002" and inserting "2004".

SEC. 164. EXTENSION OF DC ZONE THROUGH 2003.

(a) IN GENERAL.—The following provisions are amended by striking "2002" each place it appears and inserting "2003":

(1) Section 1400(f).

(2) Section 1400A(b).

(b) ZERO CAPITAL GAINS RATE.—Section 1400B (relating to zero percent capital gains rate) is amended—

(1) by striking "2003" each place it appears and inserting "2004", and

(2) by striking "2007" each place it appears and inserting "2008".

SEC. 165. EXTENSION OF ENHANCED DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.

(a) EXPANSION OF COMPUTER TECHNOLOGY DONATIONS TO PUBLIC LIBRARIES.—

(1) IN GENERAL.—Paragraph (6) of section 170(e) (relating to special rule for contributions of computer technology and equipment for elementary or secondary school purposes) is amended by striking "qualified elementary or secondary educational contribution" each place it occurs in the headings and text and inserting "qualified computer contribution".

(2) EXPANSION OF ELIGIBLE DONEES.—Clause (i) of section 170(e)(6)(B) (relating to qualified elementary or secondary educational contribution) is amended by striking "or" at the end of subclause (I), by adding "or" at the end of subclause (II), and by inserting after subclause (II) the following new subclause:

"(III) a public library (within the meaning of section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A)), as in effect on the date of the enactment of the Community Renewal Tax Relief Act of 2000, established and maintained by an entity described in subsection (c)(1),".

(3) EXTENSION OF DONATION PERIOD.—Clause (ii) of section 170(e)(6)(B) is amended by striking "2 years" and inserting "3 years".

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(6)(B)(iv) is amended by striking "in any grades of the K–12".

(2) The heading of paragraph (6) of section 170(e) is amended by striking "ELEMENTARY OR SECONDARY SCHOOL PURPOSES" and inserting "EDUCATIONAL PURPOSES".

(c) EXTENSION OF DEDUCTION.—Section 170(e)(6)(F) (relating to termination) is amended by striking "December 31, 2000" and inserting "December 31, 2003".

(d) STANDARDS AS TO FUNCTIONALITY AND SUITABILITY.—Subparagraph (B) of section 170(e)(6) is amended by striking "and" at the end of clause (vi), by striking the period at the end of clause (vii) and inserting ", and", and by adding at the end the following new clause:

"(viii) the property meets such standards, if any, as the Secretary may prescribe by regulation to assure that the property meets minimum functionality and suitability standards for educational purposes.".

(e) DONATIONS OF COMPUTERS REACQUIRED BY MANUFACTURER.—Paragraph (6) of section 170(e) is further amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) DONATIONS OF PROPERTY REACQUIRED BY MANUFACTURER.—In the case of property which is reacquired by the person who constructed the property—

"(i) subparagraph (B)(ii) shall be applied to a contribution of such property by such person by taking

into account the date that the original construction of the property was substantially completed, and

"(ii) subparagraph (B)(iii) shall not apply to such contribution.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2000.

SEC. 166. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER FEDERAL UNEMPLOYMENT TAX ACT.

(a) IN GENERAL.—Section 3306(c)(7) (defining employment) is amended—

(1) by inserting "or in the employ of an Indian tribe," after "service performed in the employ of a State, or any political subdivision thereof,"; and

(2) by inserting "or Indian tribes" after "wholly owned by one or more States or political subdivisions".

(b) PAYMENTS IN LIEU OF CONTRIBUTIONS.—Section 3309 (relating to State law coverage of services performed for nonprofit organizations or governmental entities) is amended—

(1) in subsection (a)(2) by inserting ", including an Indian tribe," after "the State law shall provide that a governmental entity";

(2) in subsection (b)(3)(B) by inserting ", or of an Indian tribe" after "of a State or political subdivision thereof";

(3) in subsection (b)(3)(E) by inserting "or tribal" after "the State"; and

(4) in subsection (b)(5) by inserting "or of an Indian tribe" after "an agency of a State or political subdivision thereof".

(c) STATE LAW COVERAGE.—Section 3309 (relating to State law coverage of services performed for nonprofit organizations or governmental entities) is amended by adding at the end the following new subsection:

"(d) ELECTION BY INDIAN TRIBE.—The State law shall provide that an Indian tribe may make contributions for employment as if the employment is within the meaning of section 3306 or make payments in lieu of contributions under this section, and shall provide that an Indian tribe may make separate elections for itself and each subdivision, subsidiary, or business enterprise wholly owned by such Indian tribe. State law may require a tribe to post a payment bond or take other reasonable measures to assure the making of payments in lieu of contributions under this section. Notwithstanding the requirements of section 3306(a)(6), if, within 90 days of having received a notice of delinquency, a tribe fails to make contributions, payments in lieu of contributions, or payment of penalties or interest (at amounts or rates comparable to those applied to all other employers covered under the State law) assessed with respect to such failure, or if the tribe fails to post a required payment bond, then service for the tribe shall not be excepted from employment under section 3306(c)(7) until any such failure is corrected. This subsection shall apply to an Indian tribe within the meaning of section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(d) DEFINITIONS.—Section 3306 (relating to definitions) is amended by adding at the end the following new subsection:

"(u) INDIAN TRIBE.—For purposes of this chapter, the term 'Indian tribe' has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act

(25 U.S.C. 450b(e)), and includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.".

(e) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to service performed on or after the date of the enactment of this Act.

(2) TRANSITION RULE.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of an Indian tribe (as defined in section 3306(u) of the Internal Revenue Code of 1986 (as added by this section)) shall not be treated as employment (within the meaning of section 3306 of such Code) if—

(A) it is service which is performed before the date of the enactment of this Act and with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid, and

(B) such Indian tribe reimburses a State unemployment fund for unemployment benefits paid for service attributable to such tribe for such period.

TITLE II—TWO-YEAR EXTENSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS

SEC. 201. TWO-YEAR EXTENSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking "2000" each place it appears and inserting "2002".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) by striking "1998 or 1999" each place it appears and inserting "1998, 1999, or 2001",

(B) by striking "600,000 (750,000 in the case of 1999)" and inserting "750,000 (600,000 in the case of 1998)", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) NO LIMITATION FOR 2000.—The numerical limitation shall not apply for 2000.".

(2) Subparagraph (A) of section 220(j)(4) is amended by striking "and 1999" and inserting "1999, and 2001".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 202. MEDICAL SAVINGS ACCOUNTS RENAMED AS ARCHER MSAS.

(a) IN GENERAL.—The following provisions are amended by striking "medical savings account" each place it appears in the text and inserting "Archer MSA":

(1) Section 26(b)(2)(Q).
(2) Section 106(b).
(3) Section 138(b).
(4) Section 220.
(5) Section 848(e)(1)(B)(iv).
(6) Subsections (a)(2) and (d) of section 4973.
(7) Subsections (c)(4) and (e)(1)(D) of section 4975.

(8) Subsections (a) and (d)(2)(B) of section 4980E.
(9) Section 6051(a)(11).

(b) OTHER AMENDMENTS.—

(1) Paragraph (16) of section 62(a) is amended to read as follows:

"(16) ARCHER MSAS.—The deduction allowed by section 220.".

(2) The following provisions are each amended by striking "medical savings accounts" each place it appears in the text and inserting "Archer MSAs":

(A) Paragraphs (4) and (7) of section 106(b).
(B) Subsections (c)(1)(D), (e)(2), (f)(3)(A), (i)(4)(B), and (j) of section 220.
(C) Section 4973(d).
(D) Subsections (b) and (d)(1) of section 4980E.
(E) Section 6693(a)(2)(B).

(3) Paragraph (1) of section 220(d) is amended by inserting "as a medical savings account" after "United States".

(4) The heading for section 220(d) is amended by striking "MEDICAL SAVINGS ACCOUNT" and inserting "ARCHER MSA".

(5) The headings for sections 220(d)(1) and 3231(e)(10) are each amended by striking "MEDICAL SAVINGS ACCOUNT" and inserting "ARCHER MSA".

(6) The headings for sections 106(b), 138(f), 220(i), and 4973(d) are each amended by striking "MEDICAL SAVINGS ACCOUNTS" and inserting "ARCHER MSAS".

(7) The headings for section 220(c)(1)(C) and 4975(c)(4) are each amended by striking "MEDICAL SAVINGS ACCOUNTS" and inserting "ARCHER MSAS".

(8) The section heading for section 220 is amended to read as follows:

"SEC. 220. ARCHER MSAS.".

(9) The item relating to section 220 in the table of sections for part VII of subchapter B of chapter 1 is amended to read as follows:

"Sec. 220. Archer MSAs.".

(10) The provisions amended by the preceding provisions of this section are further amended by striking "a Archer" each place it appears and inserting "an Archer".

(11) Section 220(e)(1) is further amended by striking "A Archer" and inserting "An Archer".

TITLE III—ADMINISTRATIVE AND TECHNICAL PROVISIONS

Subtitle A—Administrative Provisions

SEC. 301. EXEMPTION OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1) Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)).

(2) Section 16(c) of the Foreign Trade Zones Act (19 U.S.C. 81p(c)).

(3) The following provisions of the Tariff Act of 1930:

(A) Section 330(c)(1) (19 U.S.C. 1330(c)(1)).

(B) Section 607(c) (19 U.S.C. 1607(c)).

(4) Section 5 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356n).

(5) Section 351(a)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(a)(2)).

(6) Section 502 of the Automotive Products Trade Act of 1965 (19 U.S.C. 2032).

(7) Section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081).

(8) The following provisions of the Trade Act of 1974 (19 U.S.C. 2101 et seq.):

(A) Section 102(b)(4)(A)(ii)(I) (19 U.S.C. 2112(b)(4)(A)(ii)(I)).

(B) Section 102(e)(1) (19 U.S.C. 2112(e)(1)).

(C) Section 102(e)(2) (19 U.S.C. 2112(e)(2)).

(D) Section 104(d) (19 U.S.C. 2114(d)).

(E) Section 125(e) (19 U.S.C. 2135(e)).

(F) Section 135(e)(1) (19 U.S.C. 2155(e)(1)).

(G) Section 141(c) (19 U.S.C. 2171(c)).

(H) Section 162 (19 U.S.C. 2212).

(I) Section 163(b) (19 U.S.C. 2213(b)).

(J) Section 163(c) (19 U.S.C. 2213(c)).

(K) Section 203(b) (19 U.S.C. 2253(b)).

(L) Section 302(b)(2)(C) (19 U.S.C. 2412(b)(2)(C)).

(M) Section 303 (19 U.S.C. 2413).

(N) Section 309 (19 U.S.C. 2419).

(O) Section 407(a) (19 U.S.C. 2437(a)).

(P) Section 502(f) (19 U.S.C. 2462(f)).

(Q) Section 504 (19 U.S.C. 2464).

(9) The following provisions of the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.):

(A) Section 2(b) (19 U.S.C. 2503(b)).

(B) Section 3(c) (19 U.S.C. 2504(c)).

(C) Section 305(c) (19 U.S.C. 2515(c)).

(10) Section 303(g)(1) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602(g)(1)).

(11) The following provisions of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.):

(A) Section 212(a)(1)(A) (19 U.S.C. 2702(a)(1)(A)).

(B) Section 212(a)(2) (19 U.S.C. 2702(a)(2)).

(12) The following provisions of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2901 et seq.):

(A) Section 1102 (19 U.S.C. 2902).

(B) Section 1103 (19 U.S.C. 2903).

(C) Section 1206(b) (19 U.S.C. 3006(b)).

(13) Section 123(a) of the Customs and Trade Act of 1990 (Public Law 101–382) (19 U.S.C. 2083).

(14) Section 243(b)(2) of the Caribbean Basin Economic Recovery Expansion Act of 1990 (Public Law 101–382).

(15) The following provisions of the Internal Revenue Code of 1986:

(A) Section 6103(p)(5).

(B) Section 7608.

(C) Section 7802(f)(3).
(D) Section 8022(3).
(E) Section 9602(a).

(16) The following provisions relating to the revenue laws of the United States:

(A) Section 1552(c) of the Tax Reform Act of 1986 (100 Stat. 2753).

(B) Section 231 of the Deficit Reduction Act of 1984 (26 U.S.C. 801 note).

(C) Section 208 of the Tax Treatment Extension Act of 1977 (26 U.S.C. 911 note).

(D) Section 7105 of the Technical and Miscellaneous Revenue Act of 1988 (45 U.S.C. 369).

(17) Section 4008 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1308).

(18) Section 426 of the Black Lung Benefits Act (30 U.S.C. 936(b)).

(19) Section 7502(g) of title 31, United States Code.

(20) The following provisions of the Social Security Act:
(A) Section 215(i)(2)(C)(i) (42 U.S.C. 415(i)(2)(C)(i)).
(B) Section 221(i)(2) (42 U.S.C. 421(i)(2)).
(C) Section 221(i)(3) (42 U.S.C. 421(i)(3)).
(D) Section 233(e)(1) (42 U.S.C. 433(e)(1)).
(E) Section 452(a)(10) (42 U.S.C. 652(a)(10)).
(F) Section 452(g)(3)(B) (42 U.S.C. 652(g)(3)(B)).
(G) Section 506(a)(1) (42 U.S.C. 706(a)).
(H) Section 908 (42 U.S.C. 1108).
(I) Section 1114(f) (42 U.S.C. 1314(f)).
(J) Section 1120 (42 U.S.C. 1320).
(K) Section 1161 (42 U.S.C. 1320c–10).
(L) Section 1875(b) (42 U.S.C. 1395ll(b)).
(M) Section 1881 (42 U.S.C. 1395rr).
(N) Section 1882 (42 U.S.C. 1395ss(f)(2)).

(21) Section 104(b) of the Social Security Independence and Program Improvements Act of 1994 (42 USC 904 note).

(22) Section 10 of the Railroad Retirement Act of 1937 (45 U.S.C. 231f).

(23) The following provisions of the Railroad Retirement Act of 1974:
(A) Section 22(a)(1) (45 U.S.C. 231u(a)(1)).
(B) Section 22(b)(1) (45 U.S.C. 231u(b)(1)).

(24) Section 502 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231f-1).

(25) Section 47121(c) of title 49, United States Code.

(26) The following provisions of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330-182):
(A) Section 4007(c)(4) (42 U.S.C. 1395ww note).
(B) Section 4079 (42 U.S.C. 1395mm note).
(C) Section 4205 (42 U.S.C. 1395i–3 note).
(D) Section 4215 (42 U.S.C. 1396r note).

(27) The following provisions of the Inspector General Act of 1978 (Public Law 95–452):
(A) Section 5(b).
(B) Section 5(d).

(28) The following provisions of the Public Health Service Act:

(A) In section 308(a) (42 U.S.C. 242m(a)), subparagraphs (A), (B), (C), and (D) of paragraph (1).

(B) Section 403 (42 U.S.C. 283).

(29) Section 404 of the Health Services and Centers Amendments of 1978 (42 U.S.C. 242p) (Public Law 95–626).

(30) The following provisions of the Older Americans Act of 1965:

(A) Section 206(d) (42 U.S.C. 3017(d)).

(B) Section 207 (42 U.S.C. 3018).

(31) Section 308 of the Age Discrimination Act of 1975 (42 U.S.C. 6106a(b)).

(32) Section 509(c)(3) of the Americans with Disabilities Act 0f 1990 (42 U.S.C. 12209(c)(3)).

(33) Section 4207(f) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–1 note).

SEC. 302. EXTENSION OF DEADLINES FOR IRS COMPLIANCE WITH CERTAIN NOTICE REQUIREMENTS.

(a) ANNUAL INSTALLMENT AGREEMENT NOTICE.—Section 3506 of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended by striking "July 1, 2000" and inserting "September 1, 2001".

(b) NOTICE REQUIREMENTS RELATING TO COMPUTATION OF PENALTY.—Subsection (c) of section 3306 of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended—

(1) by striking "December 31, 2000" and inserting "June 30, 2001", and

(2) by adding at the end the following: "In the case of any notice of penalty issued after June 30, 2001, and before July 1, 2003, the requirements of section 6751(a) of the Internal Revenue Code of 1986 shall be treated as met if such notice contains a telephone number at which the taxpayer can request a copy of the taxpayer's assessment and payment history with respect to such penalty.".

(c) NOTICE REQUIREMENTS RELATING TO INTEREST IMPOSED.—Subsection (c) of section 3308 of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended—

(1) by striking "December 31, 2000" and inserting "June 30, 2001", and

(2) by adding at the end the following: "In the case of any notice issued after June 30, 2001, and before July 1, 2003, to which section 6631 of the Internal Revenue Code of 1986 applies, the requirements of section 6631 of such Code shall be treated as met if such notice contains a telephone number at which the taxpayer can request a copy of the taxpayer's payment history relating to interest amounts included in such notice.".

SEC. 303. EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

Paragraph (6), and the last sentence, of section 7608(c) are each amended by striking "January 1, 2001" and inserting "January 1, 2006".

SEC. 304. CONFIDENTIALITY OF CERTAIN DOCUMENTS RELATING TO CLOSING AND SIMILAR AGREEMENTS AND TO AGREEMENTS WITH FOREIGN GOVERNMENTS.

(a) CLOSING AND SIMILAR AGREEMENTS TREATED AS RETURN INFORMATION.—Paragraph (2) of section 6103(b) (defining return

information) is amended by striking "and" at the end of subparagraph (B), by inserting "and" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement,".

(b) AGREEMENTS WITH FOREIGN GOVERNMENTS.—

(1) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by inserting after section 6104 the following new section:

"SEC. 6105. CONFIDENTIALITY OF INFORMATION ARISING UNDER TREATY OBLIGATIONS.

"(a) IN GENERAL.—Tax convention information shall not be disclosed.

"(b) EXCEPTIONS.—Subsection (a) shall not apply—

"(1) to the disclosure of tax convention information to persons or authorities (including courts and administrative bodies) which are entitled to such disclosure pursuant to a tax convention,

"(2) to any generally applicable procedural rules regarding applications for relief under a tax convention, or

"(3) in any case not described in paragraphs (1) or (2), to the disclosure of any tax convention information not relating to a particular taxpayer if the Secretary determines, after consultation with each other party to the tax convention, that such disclosure would not impair tax administration.

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

"(1) TAX CONVENTION INFORMATION.—The term 'tax convention information' means any—

"(A) agreement entered into with the competent authority of one or more foreign governments pursuant to a tax convention,

"(B) application for relief under a tax convention,

"(C) any background information related to such agreement or application,

"(D) document implementing such agreement, and

"(E) any other information exchanged pursuant to a tax convention which is treated as confidential or secret under the tax convention.

"(2) TAX CONVENTION.—The term 'tax convention' means—

"(A) any income tax or gift and estate tax convention, or

"(B) any other convention or bilateral agreement (including multilateral conventions and agreements and any agreement with a possession of the United States) providing for the avoidance of double taxation, the prevention of fiscal evasion, nondiscrimination with respect to taxes, the exchange of tax relevant information with the United States, or mutual assistance in tax matters.

"(d) CROSS REFERENCES.—

"For penalties for the unauthorized disclosure of tax convention information which is return or return information, see sections 7213, 7213A, and 7431.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 61 is amended by inserting after the item relating to section 6104 the following new item:

"Sec. 6105. Confidentiality of information arising under treaty obligations.".

(c) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—

(1) CLOSING AND SIMILAR AGREEMENTS.—Paragraph (1) of section 6110(b) is amended to read as follows:

"(1) WRITTEN DETERMINATION.—

"(A) IN GENERAL.—The term 'written determination' means a ruling, determination letter, technical advice memorandum, or Chief Counsel advice.

"(B) EXCEPTIONS.—Such term shall not include any matter referred to in subparagraph (C) or (D) of section 6103(b)(2).".

(2) AGREEMENTS WITH FOREIGN GOVERNMENTS.—Paragraph (1) of section 6110(l) is amended by inserting "or 6105" after "6104".

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

SEC. 305. INCREASE IN THRESHOLD FOR JOINT COMMITTEE REPORTS ON REFUNDS AND CREDITS.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6405 are each amended by striking "$1,000,000" and inserting "$2,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date of the enactment under section 6405 of the Internal Revenue Code of 1986.

SEC. 306. TREATMENT OF MISSING CHILDREN WITH RESPECT TO CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subsection (c) of section 151 (relating to additional exemption for dependents) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) the dependent of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a dependent of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under this section,

"(ii) the credit under section 24 (relating to child tax credit), and

"(iii) whether an individual is a surviving spouse or a head of a household (such terms are defined in section 2).

"(C) COMPARABLE TREATMENT FOR EARNED INCOME CREDIT.—For purposes of section 32, an individual—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such individual or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of section 32(c)(3)(A)(ii) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 307. AMENDMENTS TO STATUTES REFERENCING YIELD ON 52-WEEK TREASURY BILLS.

(a) AMENDMENT TO THE ACT OF FEBRUARY 26, 1931.—Section 6 of the Act of February 26, 1931 (40 U.S.C. 258e–1) (relating to the interest rate on compensation owed for takings of property) is amended—

(1) in paragraph (1), by striking "the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 week United States Treasury bills settled immediately before" and inserting "the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding"; and

(2) in paragraph (2), by striking "the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 week United States Treasury bills settled immediately before" and inserting "the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding".

(b) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 3612(f)(2)(B) of title 18, United States Code (relating to the interest rate on unpaid criminal fines and penalties of more than $2,500) is amended by striking "the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States

Treasury bills settled before" and inserting 'the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding.".

(c) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 995(f)(4) (relating to the interest rate on tax-deferred liability of shareholders of domestic international sales corporations) is amended by striking "the average investment yield of United States Treasury bills with maturities of 52 weeks which were auctioned during the 1-year period" and inserting "the average of the 1-year constant maturity Treasury yields, as published by the Board of Governors of the Federal Reserve System, for the 1-year period".

(d) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) AMENDMENT TO SECTION 1961.—Section 1961(a) of title 28, United States Code (relating to the interest rate on money judgments in civil cases recovered in Federal district court) is amended by striking "the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to" and inserting "the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding.".

(2) AMENDMENT TO SECTION 2516.—Section 2516(b) of title 28, United States Code (relating to the interest rate on a judgment against the United States affirmed by the Supreme Court after review on petition of the United States) is amended by striking "the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately before" and inserting "the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding".

SEC. 308. ADJUSTMENTS FOR CONSUMER PRICE INDEX ERROR.

(a) DETERMINATIONS BY OMB.—As soon as practicable after the date of the enactment of this Act, the Director of the Office of Management and Budget shall determine with respect to each applicable Federal benefit program whether the CPI computation error for 1999 has or will result in a shortfall in payments to beneficiaries under such program (as compared to payments that would have been made if the error had not occurred). As soon as practicable after the date of the enactment of this Act, but not later than 60 days after such date, the Director shall direct the head of the Federal agency which administers such program to make a payment or payments that, insofar as the Director finds practicable and feasible—

(1) are targeted to the amount of the shortfall experienced by individual beneficiaries, and

(2) compensate for the shortfall.

(b) COORDINATION WITH FEDERAL AGENCIES.—As soon as practicable after the date of the enactment of this Act, each Federal agency that administers an applicable Federal benefit program shall, in accordance with such guidelines as are issued by the Director pursuant to this section, make an initial determination of whether, and the extent to which, the CPI computation error

for 1999 has or will result in a shortfall in payments to beneficiaries of an applicable Federal benefit program administered by such agency. Not later than 30 days after such date, the head of such agency shall submit a report to the Director and to each House of the Congress of such determination, together with a complete description of the nature of the shortfall.

(c) IMPLEMENTATION PURSUANT TO AGENCY REPORTS.—Upon receipt of the report submitted by a Federal agency pursuant to subsection (b), the Director shall review the initial determination of the agency, the agency's description of the nature of the shortfall, and the compensation payments proposed by the agency. Prior to directing payment of such payments pursuant to subsection (a), the Director shall make appropriate adjustments (if any) in the compensation payments proposed by the agency that the Director determines are necessary to comply with the requirements of subsection (a) and transmit to the agency a summary report of the review, indicating any adjustments made by the Director. The agency shall make the compensation payments as directed by the Director pursuant to subsection (a) in accordance with the Director's summary report.

(d) INCOME DISREGARD UNDER FEDERAL MEANS-TESTED BENEFIT PROGRAMS.—A payment made under this section to compensate for a shortfall in benefits shall, in accordance with guidelines issued by the Director pursuant to this section, be disregarded in determining income under title VIII of the Social Security Act or any applicable Federal benefit program that is means-tested.

(e) FUNDING.—Funds otherwise available under each applicable Federal benefit program for making benefit payments under such program are hereby made available for making compensation payments under this section in connection with such program.

(f) NO JUDICIAL REVIEW.—No action taken pursuant to this section shall be subject to judicial review.

(g) DIRECTOR'S REPORT.—Not later than April 1, 2001, the Director shall submit to each House of the Congress a report on the activities performed by the Director pursuant to this section.

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

(1) APPLICABLE FEDERAL BENEFIT PROGRAM.—The term "applicable Federal benefit program" means any program of the Government of the United States providing for regular or periodic payments or cash assistance paid directly to individual beneficiaries, as determined by the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term "Federal agency" means a department, agency, or instrumentality of the Government of the United States.

(3) CPI COMPUTATION ERROR FOR 1999.—The term "CPI computation error for 1999" means the error in the computation of the Consumer Price Index announced by the Bureau of Labor Statistics on September 28, 2000.

(i) TAX PROVISIONS.—In the case of taxable years (and other periods) beginning after December 31, 2000, if any Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) reflects the CPI computation error for 1999—

(1) the correct amount of such Index shall (in such manner and to such extent as the Secretary of the Treasury determines to be appropriate) be taken into account for purposes of such Code, and

(2) tables prescribed under section 1(f) of such Code to reflect such correct amount shall apply in lieu of any tables that were prescribed based on the erroneous amount.

SEC. 309. PREVENTION OF DUPLICATION OF LOSS THROUGH ASSUMPTION OF LIABILITIES GIVING RISE TO A DEDUCTION.

(a) IN GENERAL.—Section 358 (relating to basis to distributees) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES FOR ASSUMPTION OF LIABILITIES TO WHICH SUBSECTION (d) DOES NOT APPLY.—

"(1) IN GENERAL.—If, after application of the other provisions of this section to an exchange or series of exchanges, the basis of property to which subsection (a)(1) applies exceeds the fair market value of such property, then such basis shall be reduced (but not below such fair market value) by the amount (determined as of the date of the exchange) of any liability—

"(A) which is assumed in exchange for such property, and

"(B) with respect to which subsection (d)(1) does not apply to the assumption.

"(2) EXCEPTIONS.—Except as provided by the Secretary, paragraph (1) shall not apply to any liability if—

"(A) the trade or business with which the liability is associated is transferred to the person assuming the liability as part of the exchange, or

"(B) substantially all of the assets with which the liability is associated are transferred to the person assuming the liability as part of the exchange.

"(3) LIABILITY.—For purposes of this subsection, the term 'liability' shall include any fixed or contingent obligation to make payment, without regard to whether the obligation is otherwise taken into account for purposes of this title.".

(b) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—Section 357(d)(1) is amended by inserting "section 358(h)," after "section 358(d),".

(c) APPLICATION OF COMPARABLE RULES TO PARTNERSHIPS AND S CORPORATIONS.—The Secretary of the Treasury or his delegate—

(1) shall prescribe rules which provide appropriate adjustments under subchapter K of chapter 1 of the Internal Revenue Code of 1986 to prevent the acceleration or duplication of losses through the assumption of (or transfer of assets subject to) liabilities described in section 358(h)(3) of such Code (as added by subsection (a)) in transactions involving partnerships, and

(2) may prescribe rules which provide appropriate adjustments under subchapter S of chapter 1 of such Code in transactions described in paragraph (1) involving S corporations rather than partnerships.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to assumptions of liability after October 18, 1999.

(2) RULES.—The rules prescribed under subsection (c) shall apply to assumptions of liability after October 18, 1999, or such later date as may be prescribed in such rules.

SEC. 310. DISCLOSURE OF CERTAIN INFORMATION TO CONGRESSIONAL BUDGET OFFICE.

(a) DISCLOSURE OF CERTAIN TAX INFORMATION.—

(1) IN GENERAL.—Subsection (j) of section 6103 (relating to statistical use) is amended by adding at the end the following new paragraph:

"(6) CONGRESSIONAL BUDGET OFFICE.—Upon written request by the Director of the Congressional Budget Office, the Secretary shall furnish to officers and employees of the Congressional Budget Office return information for the purpose of, but only to the extent necessary for, long-term models of the social security and medicare programs.".

(2) RECORDKEEPING SAFEGUARDS.—Section 6103(p) is amended—

(A) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting "the Congressional Budget Office," after "General Accounting Office,",

(ii) in subparagraph (E), by striking "commission or the General Accounting Office" and inserting "commission, the General Accounting Office, or the Congressional Budget Office",

(iii) in subparagraph (F)(ii), by striking "or the General Accounting Office," and inserting "the General Accounting Office, or the Congressional Budget Office,", and

(iv) in the matter following subparagraph (F), by inserting "or the Congressional Budget Office" after "General Accounting Office" both places it appears,

(B) in paragraph (5), by striking "commissions and the General Accounting Office" and inserting "commissions, the General Accounting Office, and the Congressional Budget Office", and

(C) in paragraph (6)(A), by inserting "and the Congressional Budget Office" after "commissions".

(b) CONFIDENTIALITY OF RECORDS.—

(1) IN GENERAL.—Section 203 of the Congressional Budget Act of 1974 (2 U.S.C. 603) is amended by adding at the end the following:

"(e) LEVEL OF CONFIDENTIALITY.—With respect to information, data, estimates, and statistics obtained under sections 201(d) and 201(e), the Director shall maintain the same level of confidentiality as is required by law of the department, agency, establishment, or regulatory agency or commission from which it is obtained. Officers and employees of the Congressional Budget Office shall be subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the department, agency, establishment, or regulatory agency or commission from which it is obtained.".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 203 of such Act is amended by striking "subsections (c) and (d)" and inserting "subsections (c), (d), and (e)".

Subtitle B—Technical Corrections

SEC. 311. AMENDMENTS RELATED TO TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999.

(a) AMENDMENTS RELATED TO SECTION 502 OF THE ACT.—

(1) Section 280C(c)(1) is amended by striking "or credit" after "deduction" each place it appears.

(2) Section 30A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) DENIAL OF DOUBLE BENEFIT.—Any wages or other expenses taken into account in determining the credit under this section may not be taken into account in determining the credit under section 41.".

(b) AMENDMENT RELATED TO SECTION 545 OF THE ACT.—Clause (ii) of section 857(b)(7)(B) is amended to read as follows:

"(ii) EXCEPTION FOR CERTAIN AMOUNTS.—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust—

"(I) for services furnished or rendered by a taxable REIT subsidiary that are described in paragraph (1)(B) of section 856(d), or

"(II) from a taxable REIT subsidiary that are described in paragraph (7)(C)(ii) of such section.".

(c) CLARIFICATION RELATED TO SECTION 538 OF THE ACT.—The reference to section 332(b)(1) of the Internal Revenue Code of 1986 in Treasury Regulation section 1.1502-34 shall be deemed to include a reference to section 732(f) of such Code.

(d) EFFECTIVE DATE.—Subsection (c) and the amendments made by this section shall take effect as if included in the provisions of the Ticket to Work and Work Incentives Improvement Act of 1999 to which they relate.

SEC. 312. AMENDMENTS RELATED TO TAX AND TRADE RELIEF EXTENSION ACT OF 1998.

(a) AMENDMENT RELATED TO SECTION 1004(b) OF THE ACT.—Subsection (d) of section 6104 is amended by adding at the end the following new paragraph:

"(6) APPLICATION TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The organizations referred to in paragraphs (1) and (2) of section 6033(d) shall comply with the requirements of this subsection relating to annual returns filed under section 6033 in the same manner as the organizations referred to in paragraph (1).".

(b) AMENDMENT RELATED TO SECTION 4003 OF THE ACT.—Subsection (b) of section 4003 of the Tax and Trade Relief Extension Act of 1998 is amended by inserting "(7)(A)(i)(II)," after "(5)(A)(ii)(I),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Tax and Trade Relief Extension Act of 1998 to which they relate.

SEC. 313. AMENDMENTS RELATED TO INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.

(a) AMENDMENTS RELATED TO INNOCENT SPOUSE RELIEF.—

(1) ELECTION MAY BE MADE ANY TIME AFTER DEFICIENCY ASSERTED.—Subparagraph (B) of section 6015(c)(3) is amended by striking "shall be made" and inserting "may be made at any time after a deficiency for such year is asserted but".

(2) CLARIFICATION REGARDING DISALLOWANCE OF REFUNDS AND CREDITS UNDER SECTION 6015(c).—

(A) IN GENERAL.—Section 6015 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) CREDITS AND REFUNDS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), notwithstanding any other law or rule of law (other than section 6511, 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

"(2) RES JUDICATA.—In the case of any election under subsection (b) or (c), if a decision of a court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the court determines that the individual participated meaningfully in such prior proceeding.

"(3) CREDIT AND REFUND NOT ALLOWED UNDER SUBSECTION (c).—No credit or refund shall be allowed as a result of an election under subsection (c).".

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 6015(e) is amended to read as follows:

"(3) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

"(A) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

"(B) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.".

(3) CLARIFICATIONS REGARDING REVIEW BY TAX COURT.—

(A) Paragraph (1) of section 6015(e) is amended in the matter preceding subparagraph (A) by inserting after "individual" the following: "against whom a deficiency has been asserted and".

(B) Subparagraph (A) of section 6015(e)(1) is amended to read as follows:

"(A) IN GENERAL.—In addition to any other remedy provided by law, the individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed—

"(i) at any time after the earlier of—

"(I) the date the Secretary mails, by certified or registered mail to the taxpayer's last known address, notice of the Secretary's final determination of relief available to the individual, or

"(II) the date which is 6 months after the date such election is filed with the Secretary, and

"(ii) not later than the close of the 90th day after the date described in clause (i)(I).".

(C) Subparagraph (B)(i) of section 6015(e)(1) is amended—

(i) by striking "until the expiration of the 90-day period described in subparagraph (A)" and inserting

"until the close of the 90th day referred to in subparagraph (A)(ii)", and

(ii) by inserting "under subparagraph (A)" after "filed with the Tax Court".

(D)(i) Subsection (e) of section 6015 is amended by adding at the end the following new paragraph:

"(5) WAIVER.—An individual who elects the application of subsection (b) or (c) (and who agrees with the Secretary's determination of relief) may waive in writing at any time the restrictions in paragraph (1)(B) with respect to collection of the outstanding assessment (whether or not a notice of the Secretary's final determination of relief has been mailed).".

(ii) Paragraph (2) of section 6015(e) is amended to read as follows:

"(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended—

"(A) for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter, and

"(B) if a waiver under paragraph (5) is made, from the date the claim for relief was filed until 60 days after the waiver is filed with the Secretary.".

(b) AMENDMENTS RELATED TO PROCEDURE AND ADMINISTRATION.—

(1) DISPUTES INVOLVING $50,000 OR LESS.—Section 7463 is amended by adding at the end the following new subsection:

"(f) ADDITIONAL CASES IN WHICH PROCEEDINGS MAY BE CONDUCTED UNDER THIS SECTION.—At the option of the taxpayer concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings may be conducted under this section (in the same manner as a case described in subsection (a)) in the case of—

"(1) a petition to the Tax Court under section 6015(e) in which the amount of relief sought does not exceed $50,000, and

"(2) an appeal under section 6330(d)(1)(A) to the Tax Court of a determination in which the unpaid tax does not exceed $50,000.".

(2) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—

(A) Section 6330(e)(1) is amended by adding at the end the following: "Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.".

(B) Section 7421(a) is amended by inserting "6330(e)(1)," after "6246(b),".

(3) CLARIFICATION.—Paragraph (3) of section 6331(k) is amended by striking "(3), (4), and (5)" and inserting "(3) and (4)".

(c) AMENDMENT RELATED TO SECTION 1103 OF THE ACT.—Paragraph (6) of section 6103(k) is amended—

(1) by inserting "and an officer or employee of the Office of Treasury Inspector General for Tax Administration" after "internal revenue officer or employee", and

(2) by striking "INTERNAL REVENUE" in the heading and inserting "CERTAIN".

(d) AMENDMENT RELATED TO SECTION 3401 OF THE ACT.—Section 6330(d)(1)(A) is amended by striking "to hear" and inserting "with respect to".

(e) AMENDMENT RELATED TO SECTION 3509 OF THE ACT.—Subparagraph (A) of section 6110(g)(5) is amended by inserting ", any Chief Counsel advice," after "technical advice memorandum".

(f) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act. The amendments made by subsections (c), (d), and (e) shall take effect as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998 to which they relate.

SEC. 314. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 101 OF THE ACT.—Paragraph (4) of section 6211(b) is amended by striking "sections 32 and 34" and inserting "sections 24(d), 32, and 34".

(b) AMENDMENT RELATED TO SECTION 302 OF THE ACT.—The last sentence of section 3405(e)(1)(B) is amended by inserting "(other than a Roth IRA)" after "individual retirement plan".

(c) AMENDMENT TO SECTION 311 OF THE ACT.—Paragraph (3) of section 311(e) of the Taxpayer Relief Act of 1997 (relating to election to recognize gain on assets held on January 1, 2001) is amended by adding at the end the following new sentence: "Such an election shall not apply to any asset which is disposed of (in a transaction in which gain or loss is recognized in whole or in part) before the close of the 1-year period beginning on the date that the asset would have been treated as sold under such election.".

(d) AMENDMENT RELATED TO SECTION 402 OF THE ACT.—The flush sentence at the end of clause (ii) of section 56(a)(1)(A) is amended by inserting before "or to any other property" the following: "(and the straight line method shall be used for such 1250 property)".

(e) AMENDMENTS RELATED TO SECTION 1072 OF THE ACT.—

(1) Clause (ii) of section 415(c)(3)(D) and subparagraph (B) of section 403(b)(3) are each amended by striking "section 125 or" and inserting "section 125, 132(f)(4), or".

(2) Paragraph (2) of section 414(s) is amended by striking "section 125, 402(e)(3)" and inserting "section 125, 132(f)(4), 402(e)(3)".

(f) AMENDMENT RELATED TO SECTION 1454 OF THE ACT.—Subsection (a) of section 7436 is amended by inserting before the period at the end of the first sentence "and the proper amount of employment tax under such determination".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief of 1997 to which they relate.

SEC. 315. AMENDMENTS RELATED TO BALANCED BUDGET ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 9302 OF THE ACT.—

(1) Paragraph (1) of section 9302(j) of the Balanced Budget Act of 1997 is amended by striking "tobacco products and cigarette papers and tubes" and inserting "cigarettes".

(2)(A) Subsection (h) of section 5702 is amended to read as follows:

"(h) MANUFACTURER OF CIGARETTE PAPERS AND TUBES.—'Manufacturer of cigarette papers and tubes' means any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.".

(B) Section 5702, as amended by subparagraph (A), is amended by striking subsection (f) and by redesignating subsections (g) through (p) as subsections (f) through (o), respectively.

(3) Subsection (c) of section 5761 is amended by adding at the end the following: "This subsection and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under this subsection. No quantity of tobacco products other than the quantity referred to in the preceding sentence may be relanded or received as a personal use quantity.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9302 of the Balanced Budget Act of 1997.

SEC. 316. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENT RELATED TO SECTION 1201 OF THE ACT.—Subparagraph (B) of section 51(d)(2) is amended—

(1) by striking "plan approved" and inserting "program funded", and

(2) by striking "(relating to assistance for needy families with minor children)".

(b) AMENDMENT RELATED TO SECTION 1302 OF THE ACT.—Clause (i) of section 1361(e)(1)(A) is amended by striking "or" before "(III)" and by adding at the end the following: "or (IV) an organization described in section 170(c)(1) which holds a contingent interest in such trust and is not a potential current beneficiary,".

(c) AMENDMENT RELATED TO SECTION 1401 OF THE ACT.—Clause (ii) of section 401(k)(10)(B) is amended by adding at the end the following new sentence: "Such term includes a distribution of an annuity contract from—

"(I) a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501(a), or

"(II) an annuity plan described in section 403(a).".

(d) AMENDMENT RELATED TO SECTION 1427 OF THE ACT.—Clause (ii) of section 219(c)(1)(B) is amended by striking "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

"(II) the amount of any designated nondeductible contribution (as defined in section 408(o)) on behalf of such spouse for such taxable year, and".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 317. AMENDMENT RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 11511 OF THE ACT.—Subparagraph (C) of section 43(c)(1) is amended—

(1) by inserting "(as defined in section 193(b))" after "expenses", and

(2) by striking "under section 193".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 11511 of the Revenue Reconciliation Act of 1990.

SEC. 318. OTHER TECHNICAL CORRECTIONS.

(a) MODIFIED ENDOWMENT CONTRACTS.—

(1) Paragraph (2) of section 7702A(a) is amended by inserting "or this paragraph" before the period.

(2) Clause (ii) of section 7702A(c)(3)(A) is amended by striking "under the contract" and inserting "under the old contract".

(3) The amendments made by this subsection shall take effect as if included in the amendments made by section 5012 of the Technical and Miscellaneous Revenue Act of 1988.

(b) AFFILIATED CORPORATIONS IN CONTEXT OF WORTHLESS SECURITIES.—

(1) Subparagraph (A) of section 165(g)(3) is amended to read as follows:

"(A) the taxpayer owns directly stock in such corporation meeting the requirements of section 1504(a)(2), and".

(2) Paragraph (3) of section 165(g) is amended by striking the last sentence.

(3) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1984.

(c) CERTAIN ANNUITIES ISSUED BY TAX-EXEMPT ORGANIZATIONS NOT TREATED AS DEBT INSTRUMENTS UNDER ORIGINAL ISSUE DISCOUNT RULES.—

(1) Clause (ii) of section 1275(a)(1)(B) is amended by striking "subchapter L" and inserting "subchapter L (or by an entity described in section 501(c) and exempt from tax under section 501(a) which would be subject to tax under subchapter L were it not so exempt)".

(2) The amendment made by this subsection shall take effect as if included in the amendments made by section 41 of the Tax Reform Act of 1984.

(d) TENTATIVE CARRYBACK ADJUSTMENTS OF LOSSES FROM SECTION 1256 CONTRACTS.—

(1) Subsection (a) of section 6411 is amended by striking "section 1212(a)(1)" and inserting "subsection (a)(1) or (c) of section 1212".

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 504 of the Economic Recovery Tax Act of 1981.

(e) CORRECTION OF CALCULATION OF AMOUNTS TO BE DEPOSITED IN HIGHWAY TRUST FUND.—

(1) Subsection (b) of section 9503 is amended by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

(2) The amendment made by paragraph (1) shall apply with respect to taxes received in the Treasury after the date of the enactment of this Act.

(f) EXPENDITURES FROM VACCINE INJURY COMPENSATION TRUST FUND.—Section 9510(c)(1)(A) is amended by striking "December 31, 1999" and inserting "October 18, 2000".

SEC. 319. CLERICAL CHANGES.

(1) Clause (i) of section 45(d)(7)(A) is amended by striking "paragraph (3)(A)" and inserting "subsection (c)(3)(A)".

(2) Subsection (f) of section 67 is amended by striking "the last sentence" and inserting "the second sentence".

(3) The heading for paragraph (5) of section 408(d) is amended to read as follows:

"(5) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AFTER DUE DATE FOR TAXABLE YEAR AND CERTAIN EXCESS ROLLOVER CONTRIBUTIONS.—".

(4) Paragraph (3) of section 475(g) is amended by striking "267(b) of" and inserting "267(b) or".

(5) The heading for subparagraph (B) of section 529(e)(3) is amended by striking "UNDER GUARANTEED PLANS".

(6) Clause (iii) of section 530(d)(4)(B) is amended by striking "; or" at the end and inserting ", or".

(7) Paragraphs (1)(C) and (2)(C) of section 664(d) are each amended by striking the period after "subsection (g))".

(8)(A) Subsection (e) of section 678 is amended by striking "an electing small business corporation" and inserting "an S corporation".

(B) Clause (v) of section 6103(e)(1)(D) is amended to read as follows:

> "(v) if the corporation was an S corporation, any person who was a shareholder during any part of the period covered by such return during which an election under section 1362(a) was in effect, or".

(9) Paragraph (7) of section 856(c) is amended by striking "paragraph (4)(B)(ii)(III)" and inserting "paragraph (4)(B)(iii)(III)"

(10) Subparagraph (A) of section 856(l)(4) is amended by striking "paragraph (9)(D)(ii)" and inserting "subsection (d)(9)(D)(ii)".

(11) Subparagraph (B) of section 871(f)(2) is amended by striking "19 U.S.C." and inserting "(19 U.S.C.".

(12) Subparagraph (B) of section 995(b)(3) is amended by striking "the Military Security Act of 1954 (22 U.S.C. 1934)" and inserting "section 38 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2778)".

(13) Section 1391(g)(3)(C) is amended by striking "paragraph (1)(B)" and inserting "paragraph (1)".

(14)(A) Paragraph (2) of section 2035(c) is amended by striking "paragraph (1)" and inserting "subsection (a)".

(B) Subsection (d) of section 2035 is amended by inserting "and paragraph (1) of subsection (c)" after "Subsection (a)".

(15) Paragraph (5) of section 3121(a) is amended by striking the semicolon at the end of subparagraph (G) and inserting a comma.

(16) Subparagraph (B) of section 4946(c)(3) is amended by striking "the lowest rate of compensation prescribed for GS–16 of the General Schedule under section 5332" and inserting "the lowest rate of basic pay for the Senior Executive Service under section 5382".

(17) Subsection (p) of section 6103 is amended—

(A) in paragraph (4), in the matter preceding subparagraph (A)—

(i) by striking the second comma after "(13)", and

(ii) by striking "(7)" and all that follows through "shall, as a condition" and inserting "(7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16) shall, as a condition", and

(B) in paragraph (4)(F)(ii), by striking the second comma after "(14)".

(18) Paragraph (5) of section 6166(k) is amended by striking "2035(d)(4)" and inserting "2035(c)(2)".

(19) Subsection (a) of section 6512 is amended by striking "; and" at the end of paragraphs (1), (2), and (5) and inserting ", and".

(20) Paragraph (1) of section 6611(g) is amended by striking the comma after "(b)(3)".

(21) Subparagraphs (A) and (B) of section 6655(e)(5) are amended by striking "subsections (d)(5) and (l)(3)(B)" and inserting "subsection (d)(5)".

(22) The subchapter heading for subchapter D of chapter 67 is amended by capitalizing the first letter of the second word.

(23)(A) Section 6724(d)(1)(B) is amended by striking clauses (xiv) through (xvii) and inserting the following:

"(xiv) subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels),

"(xv) section 4101(d) (relating to information reporting with respect to fuels taxes),

"(xvi) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss), or

"(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts), and".

(B) Section 6010(o)(4)(C) of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended by striking "inserting 'or', and by adding at the end" and inserting "inserting ', or', and by adding after subparagraph (Z)".

(24) Subsection (a) of section 7421 is amended by striking "6672(b)" and inserting "6672(c)".

(25) Paragraph (3) of section 7430(c) is amended—

(A) in the paragraph heading, by striking "ATTORNEYS" and inserting "ATTORNEYS' ", and

(B) in subparagraph (B), by striking "attorneys fees" each place it appears and inserting "attorneys' fees".

(26) Paragraph (2) of section 7603(b) is amended by striking the semicolon at the end of subparagraphs (A), (B), (C), (D), (E), (F), and (G) and inserting a comma.

(27) Clause (ii) of section 7802(b)(2)(B) is amended by striking "; and" at the end and inserting ", and".

(28) Paragraph (3) of section 7811(a) is amended by striking "taxpayer assistance order" and inserting "Taxpayer Assistance Order".

(29) Paragraph (1) of section 7811(d) is amended by striking "Ombudsman's" and inserting "National Taxpayer Advocate's".

(30) Paragraph (3) of section 7872(f) is amended by striking "foregoing" and inserting "forgoing".

TITLE IV—TAX TREATMENT OF SECURITIES FUTURES CONTRACTS

SEC. 401. TAX TREATMENT OF SECURITIES FUTURES CONTRACTS.

(a) IN GENERAL.—Subpart IV of subchapter P of chapter 1 (relating to special rules for determining gains and losses) is amended by inserting after section 1234A the following new section:

"SEC. 1234B. GAINS OR LOSSES FROM SECURITIES FUTURES CONTRACTS.

"(a) TREATMENT OF GAIN OR LOSS.—

"(1) IN GENERAL.—Gain or loss attributable to the sale or exchange of a securities futures contract shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the contract relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by the taxpayer).

"(2) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to—

"(A) a contract which constitutes property described in paragraph (1) or (7) of section 1221(a), and

"(B) any income derived in connection with a contract which, without regard to this subsection, is treated as other than gain from the sale or exchange of a capital asset.

"(b) SHORT-TERM GAINS AND LOSSES.—Except as provided in the regulations under section 1092(b) or this section, if gain or loss on the sale or exchange of a securities futures contract to sell property is considered as gain or loss from the sale or exchange of a capital asset, such gain or loss shall be treated as short-term capital gain or loss.

"(c) SECURITIES FUTURES CONTRACT.—For purposes of this section, the term 'securities futures contract' means any security future (as defined in section 3(a)(55)(A) of the Securities Exchange Act of 1934, as in effect on the date of the enactment of this section).

"(d) CONTRACTS NOT TREATED AS COMMODITY FUTURES CONTRACTS.—For purposes of this title, a securities futures contract shall not be treated as a commodity futures contract.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to provide for the proper treatment of securities futures contracts under this title.".

(b) TERMINATIONS, ETC.—Section 1234A is amended—

(1) by inserting "(other than a securities futures contract, as defined in section 1234B)" after "right or obligation" in paragraph (1),

(2) by striking "or" at the end of paragraph (1),

(3) by adding "or" at the end of paragraph (2), and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) a securities futures contract (as so defined) which is a capital asset in the hands of the taxpayer,".

(c) NONRECOGNITION UNDER SECTION 1032.—The second sentence of section 1032(a) is amended by inserting ", or with respect to a securities futures contract (as defined in section 1234B)," after "an option".

(d) TREATMENT UNDER WASH SALES RULES.—Section 1091 is amended by adding at the end the following new subsection:

"(f) CASH SETTLEMENT.—This section shall not fail to apply to a contract or option to acquire or sell stock or securities solely by reason of the fact that the contract or option settles in (or could be settled in) cash or property other than such stock or securities.".

(e) TREATMENT UNDER STRADDLE RULES.—Clause (i) of section 1092(d)(3)(B) is amended by striking "or" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

"(II) a securities futures contract (as defined in section 1234B) with respect to such stock or substantially identical stock or securities, or".

(f) TREATMENT UNDER SHORT SALES RULES.—Paragraph (2) of section 1233(e) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following:

"(D) a securities futures contract (as defined in section 1234B) to acquire substantially identical property shall be treated as substantially identical property.".

(g) TREATMENT UNDER SECTION 1256.—

(1)(A) Subsection (b) of section 1256 is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following:

"(5) any dealer securities futures contract.

The term 'section 1256 contract' shall not include any securities futures contract or option on such a contract unless such contract or option is a dealer securities futures contract.".

(B) Subsection (g) of section 1256 is amended by adding at the end the following new paragraph:

"(9) DEALER SECURITIES FUTURES CONTRACT.—

"(A) IN GENERAL.—The term 'dealer securities futures contract' means, with respect to any dealer, any securities futures contract, and any option on such a contract, which—

"(i) is entered into by such dealer (or, in the case of an option, is purchased or granted by such dealer) in the normal course of his activity of dealing in such contracts or options, as the case may be, and

"(ii) is traded on a qualified board or exchange.

"(B) DEALER.—For purposes of subparagraph (A), a person shall be treated as a dealer in securities futures

contracts or options on such contracts if the Secretary determines that such person performs, with respect to such contracts or options, as the case may be, functions similar to the functions performed by persons described in paragraph (8)(A). Such determination shall be made to the extent appropriate to carry out the purposes of this section.

"(C) SECURITIES FUTURES CONTRACT.—The term 'securities futures contract' has the meaning given to such term by section 1234B.".

(2) Paragraph (4) of section 1256(f) is amended—

(A) by inserting ", or dealer securities futures contracts," after "dealer equity options" in the text, and

(B) by inserting "AND DEALER SECURITIES FUTURES CONTRACTS" after "DEALER EQUITY OPTIONS" in the heading.

(3) Paragraph (6) of section 1256(g) is amended to read as follows:

"(6) EQUITY OPTION.—The term 'equity option' means any option—

"(A) to buy or sell stock, or

"(B) the value of which is determined directly or indirectly by reference to any stock or any narrow-based security index (as defined in section 3(a)(55) of the Securities Exchange Act of 1934, as in effect on the date of the enactment of this paragraph).

The term 'equity option' includes such an option on a group of stocks only if such group meets the requirements for a narrow-based security index (as so defined).".

(4) The Secretary of the Treasury or his delegate shall make the determinations under section 1256(g)(9)(B) of the Internal Revenue Code of 1986, as added by this Act, not later than July 1, 2001.

(h) CONFORMING AMENDMENTS.—

(1) Section 1223 is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16) If the security to which a securities futures contract (as defined in section 1234B) relates (other than a contract to which section 1256 applies) is acquired in satisfaction of such contract, in determining the period for which the taxpayer has held such security, there shall be included the period for which the taxpayer held such contract if such contract was a capital asset in the hands of the taxpayer.".

(2) The table of sections for subpart IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1234A the following new item:

"Sec. 1234B. Securities futures contracts.".

(i) DESIGNATION OF CONTRACT MARKETS.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) DESIGNATION OF CONTRACT MARKETS.—Any designation by the Commodity Futures Trading Commission of a contract market which could not have been made under the law in effect on the day before the date of the enactment of the Commodity Futures Modernization Act of 2000 shall apply for purposes of this title except to the extent provided in regulations prescribed by the Secretary.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

APPENDIX H—H.R. 5663

SECTION 1. NEW MARKETS VENTURE CAPITAL PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "New Markets Venture Capital Program Act of 2000".

(b) NEW MARKETS VENTURE CAPITAL PROGRAM.—Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended—

(1) in the heading for the title, by striking "SMALL BUSINESS INVESTMENT COMPANIES"and inserting "INVESTMENT DIVISION PROGRAMS";

(2) by inserting before the heading for section 301 the following:

"PART A—SMALL BUSINESS INVESTMENT COMPANIES";

and

(3) by adding at the end the following:

"PART B—NEW MARKETS VENTURE CAPITAL PROGRAM

"SEC. 351. DEFINITIONS.

"In this part, the following definitions apply:

"(1) DEVELOPMENTAL VENTURE CAPITAL.—The term 'developmental venture capital' means capital in the form of equity capital investments in businesses made with a primary objective of fostering economic development in low-income geographic areas. For the purposes of this paragraph, the term 'equity capital' has the same meaning given such term in section 303(g)(4).

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual whose income (adjusted for family size) does not exceed—

"(A) for metropolitan areas, 80 percent of the area median income; and

"(B) for nonmetropolitan areas, the greater of—

"(i) 80 percent of the area median income; or

"(ii) 80 percent of the statewide nonmetropolitan area median income.

"(3) LOW-INCOME GEOGRAPHIC AREA.—the term 'low-income geographic area' means—

"(A) any population census tract (or in the case of an area that is not tracted for population census tracts, the equivalent county division, as defined by the Bureau of the Census of the Department of Commerce for purposes of defining poverty areas), if—

"(i) the poverty rate for that census tract is not less than 20 percent;

"(ii) in the case of a tract—

"(I) that is located within a metropolitan area, 50 percent or more of the households in that census tract have an income equal to less than 60 percent of the area median gross income; or

"(II) that is not located within a metropolitan area, the median household income for such tract does not exceed 80 percent of the statewide median household income; or

"(iii) as determined by the Administrator based on objective criteria, a substantial population of low-income individuals reside, an inadequate access to investment capital exists, or other indications of economic distress exist in that census tract; or

"(B) any area located within—

"(i) a HUBZone (as defined in section 3(p) of the Small Business Act and the implementing regulations issued under that section);

"(ii) an urban empowerment zone or urban enterprise community (as designated by the Secretary of Housing and Urban Development); or

"(iii) a rural empowerment zone or rural enterprise community (as designated by the Secretary of Agriculture).

"(4) NEW MARKETS VENTURE CAPITAL COMPANY.—The term 'New Markets Venture Capital company' means a company that—

"(A) has been granted final approval by the Administrator under section 354(e); and

"(B) has entered into a participation agreement with the Administrator.

"(5) OPERATIONAL ASSISTANCE.—The term 'operational assistance' means management, marketing, and other technical assistance that assists a small business concern with business development.

"(6) PARTICIPATION AGREEMENT.—The term 'participation agreement' means an agreement, between the Administrator and a company granted final approval under section 354(e), that—

"(A) details the company's operating plan and investment criteria; and

"(B) requires the company to make investments in smaller enterprises at least 80 percent of which are located in low-income geographic areas.

"(7) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—The term 'specialized small business investment company' means any small business investment company that—

"(A) invests solely in small business concerns that contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages;

"(B) is organized or chartered under State business or nonprofit corporations statutes, or formed as a limited partnership; and

"(C) was licensed under section 301(d), as in effect before September 30, 1996.

"(8) STATE.—The term 'State' means such of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

"SEC. 352. PURPOSES.

"The purposes of the New Markets Venture Capital Program established under this part are—

"(1) to promote economic development and the creation of wealth and job opportunities in low-income geographic areas and among individuals living in such areas by encouraging developmental venture capital investments in smaller enterprises primarily located in such areas; and

"(2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in low-income geographic areas, to be administered by the Administrator—

"(A) to enter into participation agreements with New Markets Venture Capital companies;

"(B) to guarantee debentures of New Markets Venture Capital companies to enable each such company to make developmental venture capital investments in smaller enterprises in low-income geographic areas; and

"(C) to make grants to New Markets Venture Capital companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by such companies.

"SEC. 353. ESTABLISHMENT.

"In accordance with this part, the Administrator shall establish a New Markets Venture Capital Program, under which the Administrator may—

"(1) enter into participation agreements with companies granted final approval under section 354(e) for the purposes set forth in section 352;

"(2) guarantee the debentures issued by New Markets Venture Capital companies as provided in section 355; and

"(3) make grants to New Markets Venture Capital companies, and to other entities, under section 358.

"SEC. 354. SELECTION OF NEW MARKETS VENTURE CAPITAL COMPANIES.

"(a) ELIGIBILITY.—A company shall be eligible to apply to participate, as a New Markets Venture Capital company, in the program established under this part if—

"(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

"(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

"(3) the company has a primary objective of economic development of low-income geographic areas.

"(b) APPLICATION.—To participate, as a New Markets Venture Capital company, in the program established under this part a

company meeting the eligibility requirements set forth in subsection (a) shall submit an application to the Administrator that includes—

"(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified low-income geographic areas;

"(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the company's management;

"(3) a description of how the company intends to work with community organizations and to seek to address the unmet capital needs of the communities served;

"(4) a proposal describing how the company intends to use the grant funds provided under this part to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company intends to use licensed professionals, when necessary, on the company's staff or from an outside entity;

"(5) with respect to binding commitments to be made to the company under this part, an estimate of the ratio of cash to in-kind contributions;

"(6) a description of the criteria to be used to evaluate whether and to what extent the company meets the objectives of the program established under this part;

"(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the company's business plan; and

"(8) such other information as the Administrator may require.

"(c) CONDITIONAL APPROVAL.—

"(1) IN GENERAL.—From among companies submitting applications under subsection (b), the Administrator shall, in accordance with this subsection, conditionally approval companies to participate in the New Markets Venture Capital Program.

"(2) SELECTION CRITERIA.—In selecting companies under paragraph (1), the Administrator shall consider the following:

"(A) The likelihood that the company will meet the goal of its business plan.

"(B) The experience and background of the company's management team.

"(C) The need for developmental venture capital investments in the geographic areas in which the company intends to invest.

"(D) The extent to which the company will concentrate its activities on serving the geographic areas in which it intends to invest.

"(E) The likelihood that the company will be able to satisfy the conditions under subsection (d).

"(F) The extent to which the activities proposed by the company will expand economic opportunities in the geographic areas in which the company intends to invest.

"(G) The strength of the company's proposal to provide operational assistance under this part as the proposal relates to the ability of the applicant to meet applicable cash requirements and properly utilize in-kind contributions, including the use of resources for the services of licensed professionals, when necessary, whether provided

by persons on the company's staff or by persons outside of the company.

"(H) Any other factors deemed appropriate by the Administrator.

"(3) NATIONWIDE DISTRIBUTION.—The Administrator shall select companies under paragraph (1) in such a way that promotes investment nationwide.

"(d) REQUIREMENTS TO BE MET FOR FINAL APPROVAL.—The Administrator shall grant each conditionally approved company a period of time, not to exceed 2 years, to satisfy the following requirements:

"(1) CAPITAL REQUIREMENT.—Each conditionally approved company shall raise not less than $5,000,000 of private capital or binding capital commitments from one or more investors (other than agencies or departments of the Federal Government) who met criteria established by the Administrator.

"(2) NONADMINISTRATION RESOURCES FOR OPERATIONAL ASSISTANCE.—

"(A) IN GENERAL.—In order to provide operational assistance to smaller enterprises expected to be financed by the company, each conditionally approved company—

"(i) shall have binding commitments (for contribution in cash or in kind)—

"(I) from any sources other than the Small Business Administration that meet criteria established by the Administrator;

"(II) payable or available over a multiyear period acceptable to the Administrator (not to exceed 10 years); and

"(III) in an amount not less than 30 percent of the total amount of capital and commitments raised under paragraph (1);

"(ii) shall have purchased an annuity—

"(I) from an insurance company acceptable to the Administrator;

"(II) using funds (other than the funds raised under paragraph (1)), from any source other than the Administrator; and

"(III) that yields cash payments over a multiyear period acceptable to the Administrator (not to exceed 10 years) in an amount not less than 30 percent of the total amount of capital and commitments raised under paragraph (1); or

"(iii) shall have binding commitments (for contributions in cash or in kind) of the type described in clause (i) and shall have purchased an annuity of the type described in clause (ii), which in the aggregate make available, over a multiyear period acceptable to the Administrator (not to exceed 10 years), an amount not less than 30 percent of the total amount of capital and commitments raised under paragraph (1).

"(B) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based upon a showing of special circumstances and good cause, consider an applicant to have satisfied the requirements of subparagraph (A) if the applicant has—

"(i) a viable plan that reasonably projects the capacity of the applicant to raise the amount (in cash or in-kind) required under subparagraph (A); and

"(ii) binding commitments in an amount equal to not less than 20 percent of the total amount required under paragraph (A).

"(C) LIMITATION.—In order to comply with the requirements of subparagraphs (A) and (B), the total amount of a company's in-kind contributions may not exceed 50 percent of the company's total contributions.

"(e) FINAL APPROVAL; DESIGNATION.—The Administrator shall, with respect to each applicant conditionally approved to operate as a New Markets Venture Capital company under subsection (c), either—

"(1) grant final approval to the applicant to operate as a New Markets Venture Capital company under this part and designate the applicant as such a company, if the applicant—

"(A) satisfies the requirements of subsection (d) on or before the expiration of the time period described in that subsection; and

"(B) enters into a participation agreement with the Administrator; or

"(2) if the applicant fails to satisfy the requirements of subsection (d) on or before the expiration of the time period described in that subsection, revoke the conditional approval granted under that subsection.

"SEC. 355. DEBENTURES.

"(a) IN GENERAL.—The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any New Markets Venture Capital company.

"(b) TERMS AND CONDITIONS.—The Administrator may make guarantees under this section on such terms and conditions as it deems appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

"(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

"(d) MAXIMUM GUARANTEE.—

"(1) IN GENERAL.—Under this section, the Administrator may guarantee the debentures issued by a New Markets Venture Capital company only to be extent that the total face amount of outstanding guaranteed debentures of such company does not exceed 150 percent of the private capital of the company, as determined by the Administrator.

"(2) TREATMENT OF CERTAIN FEDERAL FUNDS.—For the purposes of paragraph (1), private capital shall include capital that is considered to be Federal funds, if such capital is contributed by an investor other than an agency or department of the Federal Government.

"SEC. 356. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) ISSUANCE.—The Administrator may issue trust certificates representing ownership of all or a fractional part of debentures issued by a New Markets Venture Capital company and guaranteed by the Administrator under this part, if such certificates are based

on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

"(b) GUARANTEE.—

"(1) IN GENERAL.—The Administrator may, under such terms and conditions as it deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

"(2) LIMITATION.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

"(3) PREPAYMENT OR DEFAULT.—In the event that a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administrator only through the date of payment of the guarantee. At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

"(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee of a trust certificate issued by the Administrator or its agents under this section.

"(d) FEES.—The Administrator shall not collect a fee for any guarantee of a trust certificate under this section, but any agent of the Administrator may collect a fee approved by the Administrator for the functions described in subsection (f)(2).

"(e) SUBROGATION AND OWNERSHIP RIGHTS.—

"(1) SUBROGATION.—In the event the Administrator pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) OWNERSHIP RIGHTS.—No Federal, State, or local law shall preclude or limit the exercise by the Administrator of its ownership rights in the debentures residing in a trust or pool against which trust certificates are issued under this section.

"(f) MANAGEMENT AND ADMINISTRATION.—

"(1) REGISTRATION.—The Administrator may provide for a central registration of all trust certificates issued under this section.

"(2) CONTRACTING OF FUNCTIONS.—

"(A) IN GENERAL.—The Administrator may contract with an agent or agents to carry out on behalf of the Administrator the pooling and the central registration functions provided for in this section including, notwithstanding any other provision of law—

"(i) maintenance, on behalf of and under the direction of the Administrator, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

"(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

"(B) FIDELITY BOND OR INSURANCE REQUIREMENT.—Any agent performing functions on behalf of the Administrator under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administrator determines to be necessary to fully protect the interests of the United States.

"(3) REGULATION OF BROKERS AND DEALERS.—The Administrator may regulate brokers and dealers in trust certificates issued under this section.

"(4) ELECTRONIC REGISTRATION.—Nothing in this subsection may be construed to prohibit the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

"SEC. 357. FEES.

"Except as provided in section 356(d), the Administrator may charge such fees as it deems appropriate with respect to any guarantee or grant issued under this part.

"SEC. 358. OPERATIONAL ASSISTANCE GRANTS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—In accordance with this section, the Administrator may make grants to New Markets Venture Capital companies and to other entities, as authorized by this part, to provide operational assistance to smaller enterprises financed, or expected to be financed, by such companies or other entities.

"(2) TERMS.—Grants made under this subsection shall be made over a multiyear period not to exceed 10 years, under such other terms as the Administrator may require.

"(3) GRANTS TO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) AUTHORITY.—In accordance with this section, the Administrator may make grants to specialized small business investment companies to provide operational assistance to smaller enterprises financed, or expected to be financed, by such companies after the effective date of the New Markets Venture Capital Program Act of 2000.

"(B) USE OF FUNDS.—The proceeds of a grant made under this paragraph may be used by the company receiving such grant only to provide operational assistance in connection with an equity investment (made with capital raised after the effective date of the New Markets Venture Capital Program Act of 2000) in a business located in a low-income geographic area.

"(C) SUBMISSION OF PLANS.—A specialized small business investment company shall be eligible for a grant under this section only if the company submits to the Administrator, in such form and manner as the Administrator may require, a plan for use of the grant.

"(4) GRANT AMOUNT.—

"(A) NEW MARKETS VENTURE CAPITAL COMPANIES.—The amount of a grant made under this subsection to a New Markets Venture Capital company shall be equal to the resources (in cash or in kind) raised by the company under section 354(d)(2).

"(B) OTHER ENTITIES.—The amount of a grant made under this subsection to any entity other than a New Markets Venture Capital company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to New Market Venture Capital companies set forth in section 354(d)(2).

"(5) PRO RATA REDUCTIONS.—If the amount made available to carry out this section is insufficient for the Administrator to provide grants in the amounts provided for in paragraph (4), the Administrator shall make pro rata reductions in the amounts otherwise payable to each company and entity under such paragraph.

"(b) SUPPLEMENTAL GRANTS.—

"(1) IN GENERAL.—The Administrator may make supplemental grants to New Markets Venture Capital companies and to other entities, as authorized by this part under such terms as the Administrator may require, to provide additional operational assistance to smaller enterprises financed, or expected to be financed, by the companies.

"(2) MATCHING REQUIREMENT.—The Administrator may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide from resources (in a cash or in kind), other then those provided by the Administrator, a matching contribution equal to the amount of the supplemental grant.

"(c) LIMITATION.—None of the assistance made available under this section may be used for any overhead or general and administrative expense of a New Markets Venture Capital company or a specialized small business investment company.

"SEC. 359. BANK PARTICIPATION.

"(a) IN GENERAL.—Except as provided in subsection (b), any national bank, any member bank of the Federal Reserve System, and (to the extent permitted under applicable State law) any insured bank that is not a member of such system, may invest in any New Markets Venture Capital company, or in any entity established to invest solely in New Markets Venture Capital companies.

"(b) LIMITATION.—No bank described in subsection (a) may make investments described in such subsection that are greater than 5 percent of the capital and surplus of the bank.

"SEC. 360. FEDERAL FINANCING BANK.

"Section 318 shall not apply to any debenture issued by a New Markets Venture Capital company under this part.

"SEC. 361. REPORTING REQUIREMENT.

"Each New Markets Venture Capital company that participates in the program established under this part shall provide to the Administrator such information as the Administrator may require, including—

"(1) information related to the measurement criteria that the company proposed in its program application; and

"(2) in each case in which the company under this part makes an investment in, or a loan or grant to, a business that is not located in a low-income geographic area, a report on the number and percentage of employees of the business who reside in such areas.

"SEC. 362. EXAMINATIONS.

"(a) IN GENERAL.—Each New Markets Venture Capital company that participates in the program established under this part shall be subject to examinations made at the direction of the Investment Division of the Small Business Administration in accordance with this section.

"(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—Examinations under this section may be conducted with the assistance of a private sector entity that has both the qualifications and the expertise necessary to conduct such examinations.

"(c) COSTS.—

"(1) ASSESSMENT.—

"(A) IN GENERAL.—The Administrator may assess the cost of examinations under this section, including compensation of the examiners, against the company examined.

"(B) PAYMENT.—Any company against which the Administrator assesses costs under this paragraph shall pay such costs.

"(d) DEPOSIT OF FUNDS.—Funds collected under this section shall be deposited in the account for salaries and expenses of the Small Business Administration.

"SEC. 363. INJUNCTIONS AND OTHER ORDERS.

"(a) IN GENERAL.—Whenever, in the judgment of the Administrator, a New Markets Venture Capital company or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or regulation under this Act, or of any order issued under this Act, the Administrator may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Administrator that such New Markets Venture Capital company or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

"(b) JURISDICTION.—In any proceeding under subsection (a), the court as a court of equity may, to such extent as it deems necessary, take exclusive jurisdiction of the New Market Venture Capital company and the assets thereof, wherever located, and the court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

"(c) ADMINISTRATOR AS TRUSTEE OR RECEIVER.—

"(1) AUTHORITY.—The Administrator may act as trustee or receiver of a New Markets Venture Capital company.

"(2) Appointment.—Upon request of the Administrator, the court may appoint the Administrator to act as a trustee or receiver of a New Markets Venture Capital company unless the court deems such appointment inequitable or otherwise inappropriate by reason of the special circumstances involved.

"SEC. 364. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.

"(a) IN GENERAL.—With respect to any New Markets Venture Capital company that violates or fails to comply with any of the provisions of this Act, of any regulation issued under this Act, or of any participation agreement entered into under this Act, the Administrator may in accordance with this section—

"(1) void the participation agreement between the Administrator and the company; and

"(2) cause the company to forfeit all of the rights and privileges derived by the company from this Act.

"(b) ADJUDICATION OF NONCOMPLIANCE.—

"(1) IN GENERAL.—Before the Administrator may cause a New Markets Venture Capital company to forfeit rights or privileges under subsection (a), a court of the United States of competent jurisdiction must find that the company committed a violation, or failed to comply, in a cause of action brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of the company is located.

"(2) PARTIES AUTHORIZED TO FILE CAUSES OF ACTION.—Each cause of action brought by the United States under this subsection shall be brought by the Administrator or by the Attorney General.

"SEC. 365. UNLAWFUL ACTS AND OMISSIONS; BREACH OF FIDUCIARY DUTY.

"(a) PARTIES DEEMED TO COMMIT A VIOLATION.—Whenever any New Markets Venture Capital company violates any provision of this Act, of a regulation issued under this Act, or of a participation agreement entered into under this Act, by reason of its failure to comply with its terms or by reason of its engaging in any act or practice that constitutes or will constitute a violation thereof, such violation shall also be deemed to be a violation and an unlawful act committed by any person who, directly or indirectly, authorizes, orders, participates in, causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, such violation.

"(b) FIDUCIARY DUTIES.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a New Markets Venture Capital company to engage in any act or practice, or to omit any act or practice, in breach of the person's fiduciary duty as such officer, director, employee, agent, or participant if, as a result thereof, the company suffers or is in imminent danger of suffering financial loss or other damage.

"(c) UNLAWFUL ACTS.—Except with the written consent of the Administrator, it shall be unlawful—

"(1) for any person to take office as an officer, director, or employee of any New Markets Venture Capital company, or to become an agent or participant in the conduct of the affairs or management of such a company, if the person—

"(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

"(B) has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction,

by reason of any act or practice involving fraud, or breach of trust; and

"(2) for any person continue to serve in any of the capacities described in paragraph (1), if—

"(A) the person is convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

"(B) the person is found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

"SEC. 366. REMOVAL OR SUSPENSION OF DIRECTORS OR OFFICERS.

"Using the procedures for removing or suspending a director or an officer of a licensee set forth in section 313 (to the extent such procedures are not inconsistent with the requirements of this part), the Administrator may remove or suspend any director or officer of any New Markets Venture Capital company.

"SEC. 367. REGULATIONS.

"The Administrator may issue such regulations as it deems necessary to carry out the provisions of this part in accordance with its purposes.

"SEC. 368. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for fiscal years 2001 through 2006, to remain available until expended, the following sums:

"(1) Such subsidy budget authority as may be necessary to guarantee $150,000,000 of debentures under this part.

"(2) $30,000,000 to make grants under this part.

"(b) FUNDS COLLECTED FOR EXAMINATIONS.—Funds deposited under section 362(c)(2) are authorized to be appropriated only for the costs of examinations under section 362 and for the costs of other oversight activities with respect to the program established under this part.".

(c) CONFORMING AMENDMENT.—Section 20(e)(1)(C) of the Small Business Act (15 U.S.C. 631 note) is amended by inserting 'part A of' before "title III".

(d) CALCULATION OF MAXIMUM AMOUNT OF SBIC LEVERAGE.—

(1) MAXIMUM LEVERAGE.—Section 303(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(2)) is amended to read as follows:

"(2) MAXIMUM LEVERAGE.—

"(A) IN GENERAL.—After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(i) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 percent of private capital;

"(ii) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 percent of the amount of private capital over $15,000,000; and

"(iii) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 percent of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(B) ADJUSTMENTS.—

"(i) IN GENERAL.—The dollar amounts in clauses (i), (ii), and (iii) of subparagraph (A) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

"(ii) INITIAL ADJUSTMENTS.—The initial adjustments made under this subparagraph after the date of the enactment of the Small Business Reauthorization Act of 1937 shall reflect only increases from March 31, 1993.

"(C) INVESTMENTS IN LOW-INCOME GEOGRAPHIC AREAS.—In calculating the outstanding leverage of a company for the purposes of subparagraph (A), the Administrator shall not include the amount of the cost basis of any equity investment made by the company in a smaller enterprise located in a low-income geographic area (as defined in section 351), to the extent that the total of such amounts does not exceed 50 percent of the company's private capital.".

(2) MAXIMUM AGGREGATE LEVERAGE.—Section 303(b)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(4)) is amended by adding at the end the following new subparagraph:

"(D) INVESTMENTS IN LOW-INCOME GEOGRAPHIC AREAS.—In calculating the aggregate outstanding leverage of a company for the purposes of subparagraph (A), the Administrator shall not include the amount of the cost basis of any equity investment made by the company in a smaller enterprise located in a low-income geographic area (as defined in section 351), to the extent that the total of such amounts does not exceed 50 percent of the company's private capital.".

(e) BANKRUPTCY EXEMPTION FOR NEW MARKETS VENTURE CAPITAL COMPANIES.—Section 109(b)(2) of title 11, United States Code, is amended by inserting "a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958," after "homestead association,".

(f) FEDERAL SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following:

"(F) NEW MARKETS VENTURE CAPITAL COMPANIES.—A Federal savings association may invest in stock, obligations, or other securities of any New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, except that a Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 5 percent of the capital and surplus of such savings association.".

SEC. 2. BUSINESSLINC GRANTS AND COOPERATIVE AGREEMENTS.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

"(n) BUSINESS GRANTS AND COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—In accordance with this subsection, the Administrator may make grants to and enter into cooperative agreements with any coalition of private entities, public entities, or any combination of private and public entities—

"(A) to expand business-to-business relationships between large and small businesses; and

"(B) to provide businesses, directly or indirectly, with online information and a database of companies that are interested in mentor-protege programs or community-based, statewide, or local business development programs.

"(2) MATCHING REQUIREMENT.—Subject to subparagraph (B), the Administrator may make a grant to a coalition under paragraph (1) only if the coalition provides for activities described in paragraph (1)(A) or (1)(B) an amount, either in kind or in cash, equal to the grant amount.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $6,600,000, to remain available until expended, for each of fiscal years 2001 through 2006.".

APPENDIX I—H.R. 5667

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Reauthorization Act of 2000".

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

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Extension of SBIR program.
Sec. 104. Annual report.
Sec. 105. Third phase assistance.
Sec. 106. Report on programs for annual performance plan.
Sec. 107. Output and outcome data.
Sec. 108. National Research Council reports.
Sec. 109. Federal agency expenditures for the SBIR program.
Sec. 110. Policy directive modifications.
Sec. 111. Federal and State technology partnership program.
Sec. 112. Mentoring networks.
Sec. 113. Simplified reporting requirements.
Sec. 114. Rural outreach program extension.

TITLE II—BUSINESS LOAN PROGRAMS

Sec. 201. Short title.
Sec. 202. Levels of participation.
Sec. 203. Loan amounts.
Sec. 204. Interest on defaulted loans.
Sec. 205. Prepayment of loans.
Sec. 206. Guarantee fees.
Sec. 207. Lease terms.
Sec. 208. Appraisals for loans secured by real property.
Sec. 209. Sale of guaranteed loans made for export purposes.
Sec. 210. Microloan program.

TITLE III—CERTIFIED DEVELOPMENT COMPANY PROGRAM

Sec. 301. Short title.
Sec. 302. Women-owned businesses.
Sec. 303. Maximum debenture size.
Sec. 304. Fees.
Sec. 305. Premier certified lenders program.
Sec. 306. Sale of certain defaulted loans.
Sec. 307. Loan liquidation.

TITLE IV—CORRECTIONS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Investment in small business investment companies.
Sec. 404. Subsidy fees.
Sec. 405. Distributions.
Sec. 406. Conforming amendment.

TITLE V—REAUTHORIZATION OF SMALL BUSINESS PROGRAMS

Sec. 501. Short title.

Sec. 502. Reauthorization of small business programs.
Sec. 503. Additional reauthorizations.
Sec. 504. Cosponsorship.

TITLE VI—HUBZONE PROGRAM

Subtitle A—HUBZones in Native America

Sec. 601. Short title.
Sec. 602. HUBZone small business concern.
Sec. 603. Qualified HUBZone small business concern.
Sec. 604. Other definitions.

Subtitle B—Other HUBZone Provisions

Sec. 611. Definitions.
Sec. 612. Eligible contracts.
Sec. 613. HUBZone redesignated areas.
Sec. 614. Community development.
Sec. 615. Reference corrections.

TITLE VII—NATIONAL WOMEN'S BUSINESS COUNCIL REAUTHORIZATION

Sec. 701. Short title.
Sec. 702. Membership of the Council.
Sec. 703. Repeal of procurement project.
Sec. 704. Studies and other research.
Sec. 705. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Loan application processing.
Sec. 802. Application of ownership requirements.
Sec. 803. Subcontracting preference for veterans.
Sec. 804. Small Business Development Center Program funding.
Sec. 805. Surety bonds.
Sec. 806. Size standards.
Sec. 807. Native Hawaiian organizations under section 8(a).
Sec. 808. National Veterans Business Development Corporation correction.
Sec. 809. Private sector resources for SCORE.
Sec. 810. Contract data collection.
Sec. 811. Procurement program for women-owned small business concerns.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 2000".

SEC. 102. FINDINGS.

Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982, and reauthorized by the Small Business Research and Development Enhancement Act of 1992 (in this title referred to as the "SBIR program") is highly successful in involving small businesses in federally funded research and development;

(2) the SBIR program made the cost-effective and unique research and development capabilities possessed by the small businesses of the Nation available to Federal agencies and departments;

(3) the innovative goods and services developed by small businesses that participated in the SBIR program have produced innovations of critical importance in a wide variety of high-technology fields, including biology, medicine, education, and defense;

(4) the SBIR program is a catalyst in the promotion of research and development, the commercialization of innovative technology, the development of new products and services, and the continued excellence of this Nation's high-technology industries; and

(5) the continuation of the SBIR program will provide expanded opportunities for one of the Nation's vital resources, its small businesses, will foster invention, research, and technology, will create jobs, and will increase this Nation's competitiveness in international markets.

SEC. 103. EXTENSION OF SBIR PROGRAM.

Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended to read as follows:

"(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program established under this section shall terminate on September 30, 2008.".

SEC. 104. ANNUAL REPORT.

Section 9(b)(7) of the Small Business Act (15 U.S.C. 638(b)(7)) is amended by striking "and the Committee on Small Business of the House of Representatives" and inserting ", and to the Committee on Science and the Committee on Small Business of the House of Representatives,".

SEC. 105. THIRD PHASE ASSISTANCE.

Section 9(e)(4)(C)(i) of the Small Business Act (15 U.S.C. 638(e)(4)(C)(i)) is amended by striking "; and" and inserting "; or".

SEC. 106. REPORT ON PROGRAMS FOR ANNUAL PERFORMANCE PLAN.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) include, as part of its annual performance plan as required by subsections (a) and (b) of section 1115 of title 31, United States Code, a section on its SBIR program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives; and".

SEC. 107. OUTPUT AND OUTCOME DATA.

(a) COLLECTION.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)), as amended by section 106 of this Act, is further amended by adding at the end the following:

"(10) collect, and maintain in a common format in accordance with subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k).".

(b) REPORT TO CONGRESS.—Section 9(b)(7) of the Small Business Act (15 U.S.C. 638(b)(7)), as amended by section 104 of this Act, is further amended by inserting before the period at the end ", including the data on output and outcomes collected pursuant to subsections (g)(10) and (o)(9), and a description of the extent to

which Federal agencies are providing in a timely manner information needed to maintain the database described in subsection (k)".

(c) DATABASE.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) DATABASE.—

"(1) PUBLIC DATABASE.—Not later than 180 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator shall develop, maintain, and make available to the public a searchable, up-to-date, electronic database that includes—

"(A) the name, size, location, and an identifying number assigned by the Administrator, of each small business concern that has received a first phase or second phase SBIR award from a Federal agency;

"(B) a description of each first phase or second phase SBIR award received by that small business concern, including—

"(i) an abstract of the project funded by the award, excluding any proprietary information so identified by the small business concern;

"(ii) the Federal agency making the award; and

"(iii) the date and amount of the award;

"(C) an identification of any business concern or subsidiary established for the commercial application of a product or service for which an SBIR award is made; and

"(D) information regarding mentors and Mentoring Networks, as required by section 35(d).

"(2) GOVERNMENT DATABASE.—Not later than 180 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator, in consultation with Federal agencies required to have an SBIR program pursuant to subsection (f)(1), shall develop and maintain a database to be used solely for SBIR program evaluation that—

"(A) contains for each second phase award made by a Federal agency—

"(i) information collected in accordance with paragraph (3) on revenue from the sale of new products or services resulting from the research conducted under the award;

"(ii) information collected in accordance with paragraph (3) on additional investment from any source, other than first phase or second phase SBIR or STTR awards, to further the research and development conducted under the award; and

"(iii) any other information received in connection with the award that the Administrator, in conjunction with the SBIR program managers of Federal agencies, considers relevant and appropriate;

"(B) includes any narrative information that a small business concern receiving a second phase award voluntarily submits to further describe the outputs and outcomes of its awards;

"(C) includes for each applicant for a first phase or second phase award that does not receive such an award—

"(i) the name, size, and location, and an identifying number assigned by the Administration;

"(ii) an abstract of the project; and

"(iii) the Federal agency to which the application was made;

"(D) includes any other data collected by or available to any Federal agency that such agency considers may be useful for SBIR program evaluation; and

"(E) is available for use solely for program evaluation purposes by the Federal Government or, in accordance with policy directives issued by the Administration, by other authorized persons who are subject to a use and nondisclosure agreement with the Federal Government covering the use of the database.

"(3) UPDATING INFORMATION FOR DATABASE.—

"(A) IN GENERAL.—A small business concern applying for a second phase award under this section shall be required to update information in the database established under this subsection for any prior second phase award received by that small business concern. In complying with this paragraph, a small business concern may apportion sales or additional investment information relating to more than one second phase award among those awards, if it notes the apportionment for each award.

"(B) ANNUAL UPDATES UPON TERMINATION.—A small business concern receiving a second phase award under this section shall—

"(i) update information in the database concerning that award at the termination of the award period; and

"(ii) be requested to voluntarily update such information annually thereafter for a period of 5 years.

"(4) PROTECTION OF INFORMATION.—Information provided under paragraph (2) shall be considered privileged and confidential and not subject to disclosure pursuant to section 552 of title 5, United States Code.

"(5) RULE OF CONSTRUCTION.—Inclusion of information in the database under this subsection shall not be considered to be publication for purposes of subsection (a) or (b) of section 102 of title 35, United States Code.".

SEC. 108. NATIONAL RESEARCH COUNCIL REPORTS.

(a) STUDY AND RECOMMENDATIONS.—The head of each agency with a budget of more than $50,000,000 for its SBIR program for fiscal year 1999, in consultation with the Small Business Administration, shall, not later than 6 months after the date of the enactment of this Act, cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to—

(1) conduct a comprehensive study of how the SBIR program has stimulated technological innovation and used small businesses to meet Federal research and development needs, including—

(A) a review of the value to the Federal research agencies of the research projects being conducted under the

SBIR program, and of the quality of research being conducted by small businesses participating under the program, including a comparison of the value of projects conducted under the SBIR program to those funded by other Federal research and development expenditures;

(B) to the extent practicable, an evaluation of the economic benefits achieved by the SBIR program, including the economic rate of return, and a comparison of the economic benefits, including the economic rate of return, achieved by the SBIR program with the economic benefits, including the economic rate of return, of other Federal research and development expenditures;

(C) an evaluation of the noneconomic benefits achieved by the SBIR program over the life of the program;

(D) a comparison of the allocation for fiscal year 2000 of Federal research and development funds to small businesses with such allocation for fiscal year 1983, and an analysis of the factors that have contributed to such allocation; and

(E) an analysis of whether Federal agencies, in fulfilling their procurement needs, are making sufficient effort to use small businesses that have completed a second phase award under the SBIR program; and

(2) make recommendations with respect to—

(A) measures of outcomes for strategic plans submitted under section 306 of title 5, United States Code, and performance plans submitted under section 1115 of title 31, United States Code, of each Federal agency participating in the SBIR program;

(B) whether companies who can demonstrate project feasibility, but who have not received a first phase award, should be eligible for second phase awards, and the potential impact of such awards on the competitive selection process of the program;

(C) whether the Federal Government should be permitted to recoup some or all of its expenses if a controlling interest in a company receiving an SBIR award is sold to a foreign company or to a company that is not a small business concern;

(D) how to increase the use by the Federal Government in its programs and procurements of technology-oriented small businesses; and

(E) improvements to the SBIR program, if any are considered appropriate.

(b) PARTICIPATION BY SMALL BUSINESS.—

(1) IN GENERAL.—In a manner consistent with law and with National Research Council study guidelines and procedures, knowledgeable individuals from the small business community with experience in the SBIR program shall be included—

(A) in any panel established by the National Research Council for the purpose of performing the study conducted under this section; and

(B) among those who are asked by the National Research Council to peer review the study.

(2) CONSULTATION.—To ensure that the concerns of small business are appropriately considered under this subsection,

the National Research Council shall consult with and consider the views of the Office of Technology and the Office of Advocacy of the Small Business Administration and other interested parties, including entities, organizations, and individuals actively engaged in enhancing or developing the technological capabilities of small business concerns.

(c) PROGRESS REPORTS.—The National Research Council shall provide semiannual progress reports on the study conducted under this section to the Committee on Science and the Committee on Small Business of the House of Representatives, and to the Committee on Small Business of the Senate.

(d) REPORT.—The National Research Council shall transmit to the heads of agencies entering into an agreement under this section and to the Committee on Science and the Committee on Small Business of the House of Representatives, and to the Committee on Small Business of the Senate—

(1) not later than 3 years after the date of the enactment of this Act, a report including the results of the study conducted under subsection (a)(1) and recommendations made under subsection (a)(2); and

(2) not later than 6 years after that date of the enactment, an update of such report.

SEC. 109. FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.

Section 9(i) of the Small Business Act (15 U.S.C. 638(i)) is amended—

(1) by striking "(i) Each Federal" and inserting the following:

"(i) ANNUAL REPORTING.—

"(1) IN GENERAL.—Each Federal"; and

(2) by adding at the end the following:

"(2) CALCULATION OF EXTRAMURAL BUDGET.—

"(A) METHODOLOGY.—Not later than 4 months after the date of the enactment of each appropriations Act for a Federal agency required by this section to have an SBIR program, the Federal agency shall submit to the Administrator a report, which shall include a description of the methodology used for calculating the amount of the extramural budget of that Federal agency.

"(B) ADMINISTRATOR'S ANALYSIS.—The Administrator shall include an analysis of the methodology received from each Federal agency referred to in subparagraph (A) in the report required by subsection (b)(7).".

SEC. 110. POLICY DIRECTIVE MODIFICATIONS.

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding at the end the following:

"(3) ADDITIONAL MODIFICATIONS.—Not later than 120 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator shall modify the policy directives issued pursuant to this subsection—

"(A) to clarify that the rights provided for under paragraph (2)(A) apply to all Federal funding awards under this section, including the first phase (as described in subsection (e)(4)(A)), the second phase (as described in subsection (e)(4)(B)), and the third phase (as described in subsection (e)(4)(C));

"(B) to provide for the requirement of a succinct commercialization plan with each application for a second phase award that is moving toward commercialization;

"(C) to require agencies to report to the Administration, not less frequently than annually, all instances in which an agency pursued research, development, or production of a technology developed by a small business concern using an award made under the SBIR program of that agency, and determined that it was not practicable to enter into a follow-on non-SBIR program funding agreement with the small business concern, which report shall include, at a minimum—

"(i) the reasons why the follow-on funding agreement with the small business concern was not practicable;

"(ii) the identity of the entity with which the agency contracted to perform the research, development, or production; and

"(iii) a description of the type of funding agreement under which the research, development, or production was obtained; and

"(D) to implement subsection (v), including establishing standardized procedures for the provision of information pursuant to subsection (k)(3).".

SEC. 111. FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) programs to foster economic development among small high-technology firms vary widely among the States;

(2) States that do not aggressively support the development of small high-technology firms, including participation by small business concerns in the SBIR program, are at a competitive disadvantage in establishing a business climate that is conducive to technology development; and

(3) building stronger national, State, and local support for science and technology research in these disadvantaged States will expand economic opportunities in the United States, create jobs, and increase the competitiveness of the United States in the world market.

(b) FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 34 as section 36; and

(2) by inserting after section 33 the following:

"SEC. 34. FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.

"(a) DEFINITIONS.—In this section and section 35, the following definitions apply:

"(1) APPLICANT.—The term 'applicant' means an entity, organization, or individual that submits a proposal for an award or a cooperative agreement under this section.

"(2) BUSINESS ADVICE AND COUNSELING.—The term 'business advice and counseling' means providing advice and assistance on matters described in section 35(c)(2)(B) to small business concerns to guide them through the SBIR and STTR program process, from application to award and successful completion of each phase of the program.

"(3) FAST PROGRAM.—The term 'FAST program' means the Federal and State Technology Partnership Program established under this section.

"(4) MENTOR.—The term 'mentor' means an individual described in section 35(c)(2).

"(5) MENTORING NETWORK.—The term 'Mentoring Network' means an association, organization, coalition, or other entity (including an individual) that meets the requirements of section 35(c).

"(6) RECIPIENT.—The term 'recipient' means a person that receives an award or becomes party to a cooperative agreement under this section.

"(7) SBIR PROGRAM.—The term 'SBIR program' has the same meaning as in section 9(e)(4).

"(8) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(9) STTR PROGRAM.—The term 'STTR program' has the same meaning as in section 9(e)(6).

"(b) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to be known as the Federal and State Technology Partnership Program, the purpose of which shall be to strengthen the technological competitiveness of small business concerns in the States.

"(c) GRANTS AND COOPERATIVE AGREEMENTS.—

"(1) JOINT REVIEW.—In carrying out the FAST program under this section, the Administrator and the SBIR program managers at the National Science Foundation and the Department of Defense shall jointly review proposals submitted by applicants and may make awards or enter into cooperative agreements under this section based on the factors for consideration set forth in paragraph (2), in order to enhance or develop in a State—

"(A) technology research and development by small business concerns;

"(B) technology transfer from university research to technology-based small business concerns;

"(C) technology deployment and diffusion benefiting small business concerns;

"(D) the technological capabilities of small business concerns through the establishment or operation of consortia comprised of entities, organizations, or individuals, including—

"(i) State and local development agencies and entities;

"(ii) representatives of technology-based small business concerns;

"(iii) industries and emerging companies;

"(iv) universities; and

"(v) small business development centers; and

"(E) outreach, financial support, and technical assistance to technology-based small business concerns participating in or interested in participating in an SBIR program, including initiatives—

"(i) to make grants or loans to companies to pay a portion or all of the cost of developing SBIR proposals;

"(ii) to establish or operate a Mentoring Network within the FAST program to provide business advice and counseling that will assist small business concerns that have been identified by FAST program participants, program managers of participating SBIR agencies, the Administration, or other entities that are knowledgeable about the SBIR and STTR programs as good candidates for the SBIR and STTR programs, and that would benefit from mentoring, in accordance with section 35;

"(iii) to create or participate in a training program for individuals providing SBIR outreach and assistance at the State and local levels; and

"(iv) to encourage the commercialization of technology developed through SBIR program funding.

"(2) SELECTION CONSIDERATIONS.—In making awards or entering into cooperative agreements under this section, the Administrator and the SBIR program managers referred to in paragraph (1)—

"(A) may only consider proposals by applicants that intend to use a portion of the Federal assistance provided under this section to provide outreach, financial support, or technical assistance to technology-based small business concerns participating in or interested in participating in the SBIR program; and

"(B) shall consider, at a minimum—

"(i) whether the applicant has demonstrated that the assistance to be provided would address unmet needs of small business concerns in the community, and whether it is important to use Federal funding for the proposed activities;

"(ii) whether the applicant has demonstrated that a need exists to increase the number or success of small high-technology businesses in the State, as measured by the number of first phase and second phase SBIR awards that have historically been received by small business concerns in the State;

"(iii) whether the projected costs of the proposed activities are reasonable;

"(iv) whether the proposal integrates and coordinates the proposed activities with other State and local programs assisting small high-technology firms in the State; and

"(v) the manner in which the applicant will measure the results of the activities to be conducted.

"(3) PROPOSAL LIMIT.—Not more than one proposal may be submitted for inclusion in the FAST program under this section to provide services in any one State in any 1 fiscal year.

"(4) PROCESS.—Proposals and applications for assistance under this section shall be in such form and subject to such procedures as the Administrator shall establish.

"(d) COOPERATION AND COORDINATION.—In carrying out the FAST program under this section, the Administrator shall cooperate and coordinate with—

"(1) Federal agencies required by section 9 to have an SBIR program; and

"(2) entities, organizations, and individuals actively engaged in enhancing or developing the technological capabilities of small business concerns, including—

"(A) State and local development agencies and entities;

"(B) State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation (as established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g));

"(C) State science and technology councils; and

"(D) representatives of technology-based small business concerns.

"(e) ADMINISTRATIVE REQUIREMENTS.—

"(1) COMPETITIVE BASIS.—Awards and cooperative agreements under this section shall be made or entered into, as applicable, on a competitive basis.

"(2) MATCHING REQUIREMENTS.—

"(A) IN GENERAL.—The non-Federal share of the cost of an activity (other than a planning activity) carried out using an award or under a cooperative agreement under this section shall be—

"(i) 50 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in one of the 18 States receiving the fewest SBIR first phase awards (as described in section 9(e)(4)(A));

"(ii) except as provided in subparagraph (B), 1 dollar for each Federal dollar, in the case of a recipient that will serve small business concerns located in one of the 16 States receiving the greatest number of such SBIR first phase awards; and

"(iii) except as provided in subparagraph (B), 75 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in a State that is not described in clause (i) or (ii) that is receiving such SBIR first phase awards.

"(B) LOW-INCOME AREAS.—The non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 50 cents for each Federal dollar that will be directly allocated by a recipient described in subparagraph (A) to serve small business concerns located in a qualified census tract, as that term is defined in section 42(d)(5)(C)(ii) of the Internal Revenue Code of 1986. Federal dollars not so allocated by that recipient shall be subject to the matching requirements of subparagraph (A).

"(C) TYPES OF FUNDING.—The non-Federal share of the cost of an activity carried out by a recipient shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

"(D) RANKINGS.—For purposes of subparagraph (A), the Administrator shall reevaluate the ranking of a State once every 2 fiscal years, beginning with fiscal year 2001, based on the most recent statistics compiled by the Administrator.

"(3) DURATION.—Awards may be made or cooperative agreements entered into under this section for multiple years, not to exceed 5 years in total.

"(f) REPORTS.—

"(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator shall prepare and submit to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives a report, which shall include, with respect to the FAST program, including Mentoring Networks—

"(A) a description of the structure and procedures of the program;

"(B) a management plan for the program; and

"(C) a description of the merit-based review process to be used in the program.

"(2) ANNUAL REPORTS.—The Administrator shall submit an annual report to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives regarding—

"(A) the number and amount of awards provided and cooperative agreements entered into under the FAST program during the preceding year;

"(B) a list of recipients under this section, including their location and the activities being performed with the awards made or under the cooperative agreements entered into; and

"(C) the Mentoring Networks and the mentoring database, as provided for under section 35, including—

"(i) the status of the inclusion of mentoring information in the database required by section 9(k); and

"(ii) the status of the implementation and description of the usage of the Mentoring Networks.

"(g) REVIEWS BY INSPECTOR GENERAL.—

"(1) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

"(A) the extent to which recipients under the FAST program are measuring the performance of the activities being conducted and the results of such measurements; and

"(B) the overall management and effectiveness of the FAST program.

"(2) REPORT.—During the first quarter of fiscal year 2004, the Inspector General of the Administration shall submit a report to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives on the review conducted under paragraph (1).

"(h) PROGRAM LEVELS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out the FAST program, including Mentoring Networks, under this section and section 35, $10,000,000 for each of fiscal years 2001 through 2005.

"(2) MENTORING DATABASE.—Of the total amount made available under paragraph (1) for fiscal years 2001 through

2005, a reasonable amount, not to exceed a total of $500,000, may be used by the Administration to carry out section 35(d).

"(i) TERMINATION.—The authority to carry out the FAST program under this section shall terminate on September 30, 2005.".

(c) COORDINATION OF TECHNOLOGY DEVELOPMENT PROGRAMS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(u) COORDINATION OF TECHNOLOGY DEVELOPMENT PROGRAMS.—

"(1) DEFINITION OF TECHNOLOGY DEVELOPMENT PROGRAM.—In this subsection, the term 'technology development program' means—

"(A) the Experimental Program to Stimulate Competitive Research of the National Science Foundation, as established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g);

"(B) the Defense Experimental Program to Stimulate Competitive Research of the Department of Defense;

"(C) the Experimental Program to Stimulate Competitive Research of the Department of Energy;

"(D) the Experimental Program to Stimulate Competitive Research of the Environmental Protection Agency;

"(E) the Experimental Program to Stimulate Competitive Research of the National Aeronautics and Space Administration;

"(F) the Institutional Development Award Program of the National Institutes of Health; and

"(G) the National Research Initiative Competitive Grants Program of the Department of Agriculture.

"(2) COORDINATION REQUIREMENTS.—Each Federal agency that is subject to subsection (f) and that has established a technology development program may, in each fiscal year, review for funding under that technology development program—

"(A) any proposal to provide outreach and assistance to one or more small business concerns interested in participating in the SBIR program, including any proposal to make a grant or loan to a company to pay a portion or all of the cost of developing an SBIR proposal, from an entity, organization, or individual located in—

"(i) a State that is eligible to participate in that program; or

"(ii) a State described in paragraph (3); or

"(B) any proposal for the first phase of the SBIR program, if the proposal, though meritorious, is not funded through the SBIR program for that fiscal year due to funding restraints, from a small business concern located in—

"(i) a State that is eligible to participate in a technology development program; or

"(ii) a State described in paragraph (3).

"(3) ADDITIONALLY ELIGIBLE STATE.—A State referred to in subparagraph (A)(ii) or (B)(ii) of paragraph (2) is a State in which the total value of contracts awarded to small business concerns under all SBIR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial

fiscal years, beginning with fiscal year 2000, based on the most recent statistics compiled by the Administrator.".

SEC. 112. MENTORING NETWORKS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 34, as added by section 111(b)(2) of this Act, the following:

"SEC. 35. MENTORING NETWORKS.

"(a) FINDINGS.—Congress finds that—

"(1) the SBIR and STTR programs create jobs, increase capacity for technological innovation, and boost international competitiveness;

"(2) increasing the quantity of applications from all States to the SBIR and STTR programs would enhance competition for such awards and the quality of the completed projects; and

"(3) mentoring is a natural complement to the FAST program of reaching out to new companies regarding the SBIR and STTR programs as an effective and low-cost way to improve the likelihood that such companies will succeed in such programs in developing and commercializing their research.

"(b) AUTHORIZATION FOR MENTORING NETWORKS.—The recipient of an award or participant in a cooperative agreement under section 34 may use a reasonable amount of such assistance for the establishment of a Mentoring Network under this section.

"(c) CRITERIA FOR MENTORING NETWORKS.—A Mentoring Network established using assistance under section 34 shall—

"(1) provide business advice and counseling to high technology small business concerns located in the State or region served by the Mentoring Network and identified under section 34(c)(1)(E)(ii) as potential candidates for the SBIR or STTR programs;

"(2) identify volunteer mentors who—

"(A) are persons associated with a small business concern that has successfully completed one or more SBIR or STTR funding agreements; and

"(B) have agreed to guide small business concerns through all stages of the SBIR or STTR program process, including providing assistance relating to—

"(i) proposal writing;

"(ii) marketing;

"(iii) Government accounting;

"(iv) Government audits;

"(v) project facilities and equipment;

"(vi) human resources;

"(vii) third phase partners;

"(viii) commercialization;

"(ix) venture capital networking; and

"(x) other matters relevant to the SBIR and STTR programs;

"(3) have experience working with small business concerns participating in the SBIR and STTR programs;

"(4) contribute information to the national database referred to in subsection (d); and

"(5) agree to reimburse volunteer mentors for out-of-pocket expenses related to service as a mentor under this section.

"(d) MENTORING DATABASE.—The Administrator shall—

"(1) include in the database required by section 9(k)(1), in cooperation with the SBIR, STTR, and FAST programs, information on Mentoring Networks and mentors participating under this section, including a description of their areas of expertise;

"(2) work cooperatively with Mentoring Networks to maintain and update the database;

"(3) take such action as may be necessary to aggressively promote Mentoring Networks under this section; and

"(4) fulfill the requirements of this subsection either directly or by contract.".

SEC. 113. SIMPLIFIED REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended by adding at the end the following:

"(v) SIMPLIFIED REPORTING REQUIREMENTS.—The Administrator shall work with the Federal agencies required by this section to have an SBIR program to standardize reporting requirements for the collection of data from SBIR applicants and awardees, including data for inclusion in the database under subsection (k), taking into consideration the unique needs of each agency, and to the extent possible, permitting the updating of previously reported information by electronic means. Such requirements shall be designed to minimize the burden on small businesses.".

SEC. 114. RURAL OUTREACH PROGRAM EXTENSION.

(a) EXTENSION OF TERMINATION DATE.—Section 501(b)(2) of the Small Business Reauthorization Act of 1997 (15 U.S.C. 638 note; 111 Stat. 2622) is amended by striking "2001" and inserting "2005".

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 9(s)(2) of the Small Business Act (15 U.S.C. 638(s)(2)) is amended by striking "for fiscal year 1998, 1999, 2000, or 2001" and inserting "for each of the fiscal years 2000 through 2005,".

TITLE II—BUSINESS LOAN PROGRAMS

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Loan Improvement Act of 2000".

SEC. 202. LEVELS OF PARTICIPATION.

Section 7(a)(2)(A) of the Small Business Act (15 U.S.C. 636(a)(2)(A)) is amended—

(1) in paragraph (i) by striking "$100,000" and inserting "$150,000"; and

(2) in paragraph (ii)—

(A) by striking "80 percent" and inserting "85 percent"; and

(B) by striking "$100,000" and inserting "$150,000".

SEC. 203. LOAN AMOUNTS.

Section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) is amended by striking "$750,000," and inserting, "$1,000,000 (or if the gross loan amount would exceed $2,000,000),".

SEC. 204. INTEREST ON DEFAULTED LOANS.

Section 7(a)(4)(B) of the Small Business Act (15 U.S.C. 636(a)(4)(B)) is amended by adding at the end the following:

"(iii) APPLICABILITY.—Clauses (i) and (ii) shall not apply to loans made on or after October 1, 2000.".

SEC. 205. PREPAYMENT OF LOANS.

Section 7(a)(4) of the Small Business Act (15 U.S.C. 636(a)(4)) is further amended—

(1) by striking "(4) INTEREST RATES AND FEES.—" and inserting "(4) INTEREST RATES AND PREPAYMENT CHARGES.—"; and

(2) by adding at the end the following:

"(C) PREPAYMENT CHARGES.—

"(i) IN GENERAL.—A borrower who prepays any loan guaranteed under this subsection shall remit to the Administration a subsidy recoupment fee calculated in accordance with clause (ii) if—

"(I) the loan is for a term of not less than 15 years;

"(II) the prepayment is voluntary;

"(III) the amount of prepayment in any calendar year is more than 25 percent of the outstanding balance of the loan; and

"(IV) the prepayment is made within the first 3 years after disbursement of the loan proceeds.

"(ii) SUBSIDY RECOUPMENT FEE.—The subsidy recoupment fee charged under clause (i) shall be—

"(I) 5 percent of the amount of prepayment, if the borrower prepays during the first year after disbursement;

"(II) 3 percent of the amount of prepayment, if the borrower prepays during the second year after disbursement; and

"(III) 1 percent of the amount of prepayment, if the borrower prepays during the third year after disbursement.".

SEC. 206. GUARANTEE FEES.

Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended to read as follows:

"(18) GUARANTEE FEES.—

"(A) IN GENERAL.—With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender, and may be charged to the borrower, as follows:

"(i) A guarantee fee equal to 2 percent of the deferred participation share of a total loan amount that is not more than $150,000.

"(ii) A guarantee fee equal to 3 percent of the deferred participation share of a total loan amount that is more than $150,000, but not more than $700,000.

"(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than $700,000.

"(B) RETENTION OF CERTAIN FEES.—Lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).".

SEC. 207. LEASE TERMS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is further amended by adding at the end the following:

"(28) LEASING.—In addition to such other lease arrangements as may be authorized by the Administration, a borrower may permanently lease to one or more tenants not more than 20 percent of any property constructed with the proceeds of a loan guaranteed under this subsection, if the borrower permanently occupies and uses not less than 60 percent of the total business space in the property.".

SEC. 208. APPRAISALS FOR LOANS SECURED BY REAL PROPERTY.

(a) SMALL BUSINESS ACT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(29) REAL ESTATE APPRAISALS.—With respect to a loan under this subsection that is secured by commercial real property, an appraisal of such property by a State licensed or certified appraiser—

"(A) shall be required by the Administration in connection with any such loan for more than $250,000; or

"(B) may be required by the Administration or the lender in connection with any such loan for $250,000 or less, if such appraisal is necessary for appropriate evaluation of creditworthiness.".

(b) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 502(3)(E) of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)(E)) is amended—

(1) by striking "The collateral" and inserting the following:

"(i) IN GENERAL.—The collateral"; and

(2) by adding at the end the following:

"(ii) APPRAISALS.—With respect to commercial real property provided by the small business concern as collateral, an appraisal of the property by a State licensed or certified appraiser—

"(I) shall be required by the Administration before disbursement of the loan if the estimated value of that property is more than $250,000; or

"(II) may be required by the Administration or the lender before disbursement of the loan if the estimated value of that property is $250,000 or less, and such appraisal is necessary for appropriate evaluation of creditworthiness.".

SEC. 209. SALE OF GUARANTEED LOANS MADE FOR EXPORT PURPOSES.

Section 5(f)(1)(C) of the Small Business Act (15 U.S.C. 634(f)(1)(C)) is amended to read as follows:

"(C) each loan, except each loan made under section 7(a)(14), shall have been fully disbursed to the borrower prior to any sale.".

SEC. 210. MICROLOAN PROGRAM.

(a) IN GENERAL.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraphs (1)(B)(iii) and (3)(E), by striking "$25,000" each place it appears and inserting "$35,000";

(2) in paragraphs (1)(A)(iii)(I), (3)(A)(ii), and (4)(C)(i)(II), by striking "$7,500" each place it appears and inserting "$10,000";

(3) in paragraph (3)(E), by striking "$15,000" and inserting "$20,000";

(4) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "55 grants"; and

(B) by striking "$125,000" and inserting "$200,000";

(5) in paragraph (6)(B), by striking "$10,000" and inserting "$15,000"; and

(6) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) NUMBER OF PARTICIPANTS.—Under the program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 300 intermediaries.".

(b) CONFORMING AMENDMENTS.—Section 7(m)(11)(B) of the Small Business Act (15 U.S.C. 636(m)(11)(B)) is amended by striking "$25,000" and inserting "$35,000".

TITLE III—CERTIFIED DEVELOPMENT COMPANY PROGRAM

SEC. 301. SHORT TITLE.

This title may be cited as the "Certified Development Company Program Improvements Act of 2000".

SEC. 302. WOMEN-OWNED BUSINESSES.

Section 501(d)(3)(C) of the Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)(C)) is amended by inserting before the comma "or women-owned business development".

SEC. 303. MAXIMUM DEBENTURE SIZE.

Section 502(2) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)) is amended to read as follows:

"(2) Loans made by the Administration under this section shall be limited to $1,000,000 for each such identifiable small business concern, except loans meeting the criteria specified in section 501(d)(3), which shall be limited to $1,300,000 for each such identifiable small business concern.".

SEC. 304. FEES.

Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) is amended to read as follows:

"(f) EFFECTIVE DATE.—The fees authorized by subsections (b) and (d) shall apply to financings approved by the Administration on or after October 1, 1996, but shall not apply to financings approved by the Administration on or after October 1, 2003.".

SEC. 305. PREMIER CERTIFIED LENDERS PROGRAM.

Section 217(b) of the Small Business Administration Reauthorization and Amendments Act of 1994 (Public Law 103–403, 15 U.S.C. 697 note) (relating to section 508 of the Small Business Investment Act of 1958) is repealed.

SEC. 306. SALE OF CERTAIN DEFAULTED LOANS.

Section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e) is amended—

(1) in subsection (a), by striking "On a pilot program basis, the" and inserting "The";

(2) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(3) in subsection (f) (as redesignated by paragraph (2)), by striking "subsection (f)" and inserting "subsection (g)";

(4) in subsection (h) (as redesignated by paragraph (2)), by striking "subsection (f)" and inserting "subsection (g)"; and

(5) by inserting after subsection (c) the following:

"(d) SALE OF CERTAIN DEFAULTED LOANS.—

"(1) NOTICE.—If, upon default in repayment, the Administration acquires a loan guaranteed under this section and identifies such loan for inclusion in a bulk asset sale of defaulted or repurchased loans or other financings, it shall give prior notice thereof to any certified development company which has a contingent liability under this section. The notice shall be given to the company as soon as possible after the financing is identified, but not less than 90 days before the date the Administration first makes any records on such financing available for examination by prospective purchasers prior to its offering in a package of loans for bulk sale.

"(2) LIMITATIONS.—The Administration shall not offer any loan described in paragraph (1) as part of a bulk sale unless it—

"(A) provides prospective purchasers with the opportunity to examine the Administration's records with respect to such loan; and

"(B) provides the notice required by paragraph (1).".

SEC. 307. LOAN LIQUIDATION.

(a) LIQUIDATION AND FORECLOSURE.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following:

"SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.

"(a) DELEGATION OF AUTHORITY.—In accordance with this section, the Administration shall delegate to any qualified State or local development company (as defined in section 503(e)) that meets the eligibility requirements of subsection (b)(1) the authority to foreclose and liquidate, or to otherwise treat in accordance with this section, defaulted loans in its portfolio that are funded with the proceeds of debentures guaranteed by the Administration under section 503.

"(b) ELIGIBILITY FOR DELEGATION.—

"(1) REQUIREMENTS.—A qualified State or local development company shall be eligible for a delegation of authority under subsection (a) if—

"(A) the company—

"(i) has participated in the loan liquidation pilot program established by the Small Business Programs Improvement Act of 1996 (15 U.S.C. 695 note), as in effect on the day before promulgation of final regulations by the Administration implementing this section;

"(ii) is participating in the Premier Certified Lenders Program under section 508; or

"(iii) during the 3 fiscal years immediately prior to seeking such a delegation, has made an average of not less than 10 loans per year that are funded with the proceeds of debentures guaranteed under section 503; and

"(B) the company—

"(i) has one or more employees—

"(I) with not less than 2 years of substantive, decision-making experience in administering the liquidation and workout of problem loans secured in a manner substantially similar to loans funded with the proceeds of debentures guaranteed under section 503; and

"(II) who have completed a training program on loan liquidation developed by the Administration in conjunction with qualified State and local development companies that meet the requirements of this paragraph; or

"(ii) submits to the Administration documentation demonstrating that the company has contracted with a qualified third-party to perform any liquidation activities and secures the approval of the contract by the Administration with respect to the qualifications of the contractor and the terms and conditions of liquidation activities.

"(2) CONFIRMATION.—On request the Administration shall examine the qualifications of any company described in subsection (a) to determine if such company is eligible for the delegation of authority under this section. If the Administration determines that a company is not eligible, the Administration shall provide the company with the reasons for such ineligibility.

"(c) SCOPE OF DELEGATED AUTHORITY.—

"(1) IN GENERAL.—Each qualified State or local development company to which the Administration delegates authority under section (a) may with respect to any loan described in subsection (a)—

"(A) perform all liquidation and foreclosure functions, including the purchase in accordance with this subsection of any other indebtedness secured by the property securing the loan, in a reasonable and sound manner according to commercially accepted practices, pursuant to a liquidation plan approved in advance by the Administration under paragraph (2)(A);

"(B) litigate any matter relating to the performance of the functions described in subparagraph (A), except that the Administration may—

"(i) defend or bring any claim if—

"(I) the outcome of the litigation may adversely affect the Administration's management of the loan program established under section 502; or

"(II) the Administration is entitled to legal remedies not available to a qualified State or local development company and such remedies will benefit either the Administration or the qualified State or local development company; or

"(ii) oversee the conduct of any such litigation; and

"(C) take other appropriate actions to mitigate loan losses in lieu of total liquidation or foreclosures, including the restructuring of a loan in accordance with prudent loan servicing practices and pursuant to a workout plan approved in advance by the Administration under paragraph (2)(C).

"(2) ADMINISTRATION APPROVAL.—

"(A) LIQUIDATION PLAN.—

"(i) IN GENERAL.—Before carrying out functions described in paragraph (1)(A), a qualified State or local development company shall submit to the Administration a proposed liquidation plan.

"(ii) ADMINISTRATION ACTION ON PLAN.—

"(I) TIMING.—Not later than 15 business days after a liquidation plan is received by the Administration under clause (i), the Administration shall approve or reject the plan.

"(II) NOTICE OF NO DECISION.—With respect to any plan that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall within such period provide in accordance with subparagraph (E) notice to the company that submitted the plan.

"(iii) ROUTINE ACTIONS.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company may undertake routine actions not addressed in a liquidation plan without obtaining additional approval from the Administration.

"(B) PURCHASE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company shall submit to the Administration a request for written approval before committing the Administration to the purchase of any other indebtedness secured by the property securing a defaulted loan.

"(ii) ADMINISTRATION ACTION ON REQUEST.—

"(I) TIMING.—Not later than 15 business days after receiving a request under clause (i), the Administration shall approve or deny the request.

"(II) NOTICE OF NO DECISION.—With respect to any request that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall within such period provide in accordance with subparagraph (E) notice to the company that submitted the request.

"(C) WORKOUT PLAN.—

"(i) IN GENERAL.—In carrying out functions described in paragraph (1)(C), a qualified State or local development company shall submit to the Administration a proposed workout plan.

"(ii) ADMINISTRATION ACTION ON PLAN.—

"(I) TIMING.—Not later than 15 business days after a workout plan is received by the Administration under clause (i), the Administration shall approve or reject the plan.

"(II) NOTICE OF NO DECISION.—With respect to any workout plan that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall within such period provide in accordance with subparagraph (E) notice to the company that submitted the plan.

"(D) COMPROMISE OF INDEBTEDNESS.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company may—

"(i) consider an offer made by an obligor to compromise the debt for less than the full amount owing; and

"(ii) pursuant to such an offer, release any obligor or other party contingently liable, if the company secures the written approval of the Administration.

"(E) CONTENTS OF NOTICE OF NO DECISION.—Any notice provided by the Administration under subparagraph (A)(ii)(II), (B)(ii)(II), or (C)(ii)(II)—

"(i) shall be in writing;

"(ii) shall state the specific reason for the Administration's inability to act on a plan or request;

"(iii) shall include an estimate of the additional time required by the Administration to act on the plan or request; and

"(iv) if the Administration cannot act because insufficient information or documentation was provided by the company submitting the plan or request, shall specify the nature of such additional information or documentation.

"(3) CONFLICT OF INTEREST.—In carrying out functions described in paragraph (1), a qualified State or local development company shall take no action that would result in an actual or apparent conflict of interest between the company (or any employee of the company) and any third party lender, associate of a third party lender, or any other person participating in a liquidation, foreclosure, or loss mitigation action.

"(d) SUSPENSION OR REVOCATION OF AUTHORITY.—The Administration may revoke or suspend a delegation of authority under this section to any qualified State or local development company, if the Administration determines that the company—

"(1) does not meet the requirements of subsection (b)(1);

"(2) has violated any applicable rule or regulation of the Administration or any other applicable law; or

"(3) fails to comply with any reporting requirement that may be established by the Administration relating to carrying out of functions described in paragraph (1).

"(e) REPORT.—

"(1) IN GENERAL.—Based on information provided by qualified State and local development companies and the Administration, the Administration shall annually submit to the Committees on Small Business of the House of Representatives and of the Senate a report on the results of delegation of authority under this section.

"(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following information:

"(A) With respect to each loan foreclosed or liquidated by a qualified State or local development company under this section, or for which losses were otherwise mitigated by the company pursuant to a workout plan under this section—

"(i) the total cost of the project financed with the loan;

"(ii) the total original dollar amount guaranteed by the Administration;

"(iii) the total dollar amount of the loan at the time of liquidation, foreclosure, or mitigation of loss;

"(iv) the total dollar losses resulting from the liquidation, foreclosure, or mitigation of loss; and

"(v) the total recoveries resulting from the liquidation, foreclosure, or mitigation of loss, both as a percentage of the amount guaranteed and the total cost of the project financed.

"(B) With respect to each qualified State or local development company to which authority is delegated under this section, the totals of each of the amounts described in clauses (i) through (v) of subparagraph (A).

"(C) With respect to all loans subject to foreclosure, liquidation, or mitigation under this section, the totals of each of the amounts described in clauses (i) through (v) of subparagraph (A).

"(D) A comparison between—

"(i) the information provided under subparagraph (C) with respect to the 12-month period preceding the date on which the report is submitted; and

"(ii) the same information with respect to loans foreclosed and liquidated, or otherwise treated, by the Administration during the same period.

"(E) The number of times that the Administration has failed to approve or reject a liquidation plan in accordance with subparagraph (A)(i), a workout plan in accordance with subparagraph (C)(i), or to approve or deny a request for purchase of indebtedness under subparagraph (B)(i), including specific information regarding the reasons for the Administration's failure and any delays that resulted.".

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 150 days after the date of the enactment of this Act, the Administrator shall issue such regulations as may be necessary to carry out section 510 of the Small Business Investment Act of 1958, as added by subsection (a) of this section.

(2) TERMINATION OF PILOT PROGRAM.—Beginning on the date on which final regulations are issued under paragraph (1), section 204 of the Small Business Programs Improvement Act of 1996 (15 U.S.C. 695 note) shall cease to have effect.

TITLE IV—CORRECTIONS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

SEC. 401. SHORT TITLE.

This title may be cited as the "Small Business Investment Corrections Act of 2000".

SEC. 402. DEFINITIONS.

(a) SMALL BUSINESS CONCERN.—Section 103(5)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 662(5)(A)(i)) is amended by inserting before the semicolon at the end the following: "regardless of the allocation of control during the investment period under any investment agreement between the business concern and the entity making the investment".

(b) LONG TERM.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (15), by striking "and" at the end;

(2) in paragraph (16), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(17) the term 'long term', when used in connection with equity capital or loan funds invested in any small business concern or smaller enterprise, means any period of time not less than 1 year.".

SEC. 403. INVESTMENT IN SMALL BUSINESS INVESTMENT COMPANIES.

Section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) is amended—

(1) by striking "(b) Notwithstanding" and inserting the following:

"(b) FINANCIAL INSTITUTION INVESTMENTS.—

"(1) CERTAIN BANKS.—Notwithstanding"; and

(2) by adding at the end the following:

"(2) CERTAIN SAVINGS ASSOCIATIONS.—Notwithstanding any other provision of law, any Federal savings association may invest in any one or more small business investment companies, or in any entity established to invest solely in small business investment companies, except that in no event may the total amount of such investments by any such Federal savings association exceed 5 percent of the capital and surplus of the Federal savings association.".

SEC. 404. SUBSIDY FEES.

(a) DEBENTURES.—Section 303(b) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)) is amended by striking "plus an additional charge of 1 percent per annum which shall be paid to and retained by the Administration" and inserting "plus, for debentures obligated after September 30, 2000, an additional charge, in an amount established annually by the Administration, of not more than 1 percent per year as necessary to reduce to zero the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) to the Administration of purchasing and guaranteeing debentures under this Act, which shall be paid to and retained by the Administration".

(b) PARTICIPATING SECURITIES.—Section 303(g)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(2)) is amended by striking "plus an additional charge of 1 percent per annum which shall be paid to and retained by the Administration" and inserting "plus, for participating securities obligated after September 30, 2000, an additional charge, in an amount established annually by the Administration, of not more than 1 percent per year as necessary to reduce to zero the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) to the Administration of purchasing and guaranteeing participating securities under this Act, which shall be paid to and retained by the Administration".

SEC. 405. DISTRIBUTIONS.

Section 303(g)(8) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(8)) is amended—

(1) by striking "subchapter s corporation" and inserting "subchapter S corporation";

(2) by striking "the end of any calendar quarter based on a quarterly" and inserting "any time during any calendar quarter based on an"; and

(3) by striking "quarterly distributions for a calendar year," and inserting "interim distributions for a calendar year,".

SEC. 406. CONFORMING AMENDMENT.

Section 310(c)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(c)(4)) is amended by striking "five years" and inserting "1 year".

TITLE V—REAUTHORIZATION OF SMALL BUSINESS PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Programs Reauthorization Act of 2000".

SEC. 502. REAUTHORIZATION OF SMALL BUSINESS PROGRAMS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following:

"(g) FISCAL YEAR 2001.—

"(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2001:

"(A) For the programs authorized by this Act, the Administration is authorized to make—

"(i) $45,000,000 in technical assistance grants as provided in section 7(m); and

"(ii) $60,000,000 in direct loans, as provided in 7(m).

"(B) For the programs authorized by this Act, the Administration is authorized to make $19,050,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(i) $14,500,000,000 in general business loans as provided in section 7(a);

"(ii) $4,000,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

"(iii) $500,000,000 in loans as provided in section 7(a)(21); and

"(iv) $50,000,000 in loans as provided in section 7(m).

"(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(i) $2,500,000,000 in purchases of participating securities; and

"(ii) $1,500,000,000 in guarantees of debentures.

"(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $4,000,000,000 of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

"(E) The Administration is authorized to make grants or enter cooperative agreements for a total amount of $5,000,000 for the Service Corps of Retired Executives program authorized by section 8(b)(1).

"(2) ADDITIONAL AUTHORIZATIONS.—

"(A) There are authorized to be appropriated to the Administration for fiscal year 2001 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out title IV of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(B) Notwithstanding any other provision of this paragraph, for fiscal year 2001—

"(i) no funds are authorized to be used as loan capital for the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

"(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

"(h) FISCAL YEAR 2002.—

"(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2002:

"(A) For the programs authorized by this Act, the Administration is authorized to make—

"(i) $60,000,000 in technical assistance grants as provided in section 7(m); and

"(ii) $80,000,000 in direct loans, as provided in 7(m).

"(B) For the programs authorized by this Act, the Administration is authorized to make $20,050,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(i) $15,000,000,000 in general business loans as provided in section 7(a);

"(ii) $4,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

"(iii) $500,000,000 in loans as provided in section 7(a)(21); and

"(iv) $50,000,000 in loans as provided in section 7(m).

"(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(i) $3,500,000,000 in purchases of participating securities; and

"(ii) $2,500,000,000 in guarantees of debentures.

"(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $5,000,000,000 of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

"(E) The Administration is authorized to make grants or enter cooperative agreements for a total amount of $6,000,000 for the Service Corps of Retired Executives program authorized by section 8(b)(1).

"(2) ADDITIONAL AUTHORIZATIONS.—

"(A) There are authorized to be appropriated to the Administration for fiscal year 2002 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out title IV of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(B) Notwithstanding any other provision of this paragraph, for fiscal year 2002—

"(i) no funds are authorized to be used as loan capital for the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

"(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

"(i) FISCAL YEAR 2003.—

"(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2003:

"(A) For the programs authorized by this Act, the Administration is authorized to make—

"(i) $70,000,000 in technical assistance grants as provided in section 7(m); and

"(ii) $100,000,000 in direct loans, as provided in 7(m).

"(B) For the programs authorized by this Act, the Administration is authorized to make $21,550,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(i) $16,000,000,000 in general business loans as provided in section 7(a);

"(ii) $5,000,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

"(iii) $500,000,000 in loans as provided in section 7(a)(21); and

"(iv) $50,000,000 in loans as provided in section 7(m).

"(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(i) $4,000,000,000 in purchases of participating securities; and

"(ii) $3,000,000,000 in guarantees of debentures.

"(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $6,000,000,000 of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

"(E) The Administration is authorized to make grants or enter into cooperative agreements for a total amount of $7,000,000 for the Service Corps of Retired Executives program authorized by section 8(b)(1).

"(2) ADDITIONAL AUTHORIZATIONS.—

"(A) There are authorized to be appropriated to the Administration for fiscal year 2003 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out title IV of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(B) Notwithstanding any other provision of this paragraph, for fiscal year 2003—

"(i) no funds are authorized to be used as loan capital for the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

"(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically

authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.".

SEC. 503. ADDITIONAL REAUTHORIZATIONS.

(a) DRUG-FREE WORKPLACE PROGRAM.—Section 27 of the Small Business Act (15 U.S.C. 654) is amended—

(1) in the section heading, by striking "**DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM**" and inserting "**PAUL D. COVERDELL DRUG-FREE WORKPLACE PROGRAM**"; and

(2) in subsection (g)(1), by striking "$10,000,000 for fiscal years 1999 and 2000" and inserting "$5,000,000 for each of fiscal years 2001 through 2003".

(b) HUBZONE PROGRAM.—Section 31 of the Small Business Act (15 U.S.C. 657a) is amended by adding at the end the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program established by this section $10,000,000 for each of fiscal years 2001 through 2003.".

(c) VERY SMALL BUSINESS CONCERNS PROGRAM.—Section 304(i) of the Small Business Administration Reauthorization and Amendments Act of 1994 (Public Law 103–403; 15 U.S.C. 644 note) is amended by striking "September 30, 2000" and inserting "September 30, 2003".

(d) SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESSES PROGRAM.—Section 7102(c) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 15 U.S.C. 644 note) is amended by striking "September 30, 2000" and inserting "September 30, 2003".

(e) SBDC SERVICES.—Section 21(c)(3)(T) of the Small Business Act (15 U.S.C. 648(c)(3)(T)) is amended by striking "2000" and inserting "2003".

SEC. 504. COSPONSORSHIP.

(a) IN GENERAL.—Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended to read as follows:

"(1)(A) to provide—

"(i) technical, managerial, and informational aids to small business concerns—

"(I) by advising and counseling on matters in connection with Government procurement and policies, principles, and practices of good management;

"(II) by cooperating and advising with—

"(aa) voluntary business, professional, educational, and other nonprofit organizations, associations, and institutions (except that the Administration shall take such actions as it determines necessary to ensure that such cooperation does not constitute or imply an endorsement by the Administration of the organization or its products or services, and shall ensure that it receives appropriate recognition in all printed materials); and

"(bb) other Federal and State agencies;

"(III) by maintaining a clearinghouse for information on managing, financing, and operating small business enterprises; and

"(IV) by disseminating such information, including through recognition events, and by other activities that the Administration determines to be appropriate; and

"(ii) through cooperation with a profit-making concern (referred to in this paragraph as a 'cosponsor'), training, information, and education to small business concerns, except that the Administration shall—

"(I) take such actions as it determines to be appropriate to ensure that—

"(aa) the Administration receives appropriate recognition and publicity;

"(bb) the cooperation does not constitute or imply an endorsement by the Administration of any product or service of the cosponsor;

"(cc) unnecessary promotion of the products or services of the cosponsor is avoided; and

"(dd) utilization of any one cosponsor in a marketing area is minimized; and

"(II) develop an agreement, executed on behalf of the Administration by an employee of the Administration in Washington, the District of Columbia, that provides, at a minimum, that—

"(aa) any printed material to announce the cosponsorship or to be distributed at the cosponsored activity, shall be approved in advance by the Administration;

"(bb) the terms and conditions of the cooperation shall be specified;

"(cc) only minimal charges may be imposed on any small business concern to cover the direct costs of providing the assistance;

"(dd) the Administration may provide to the cosponsorship mailing labels, but not lists of names and addresses of small business concerns compiled by the Administration;

"(ee) all printed materials containing the names of both the Administration and the cosponsor shall include a prominent disclaimer that the cooperation does not constitute or imply an endorsement by the Administration of any product or service of the cosponsor; and

"(ff) the Administration shall ensure that it receives appropriate recognition in all cosponsorship printed materials.".

(b) EXTENSION OF COSPONSORSHIP AUTHORITY.—Section 401(a)(2) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 637 note) is amended by striking "September 30, 2000" and inserting "September 30, 2003".

TITLE VI—HUBZONE PROGRAM

Subtitle A—HUBZones in Native America

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "HUBZones in Native America Act of 2000".

SEC. 602. HUBZONE SMALL BUSINESS CONCERN.

Section 3(p)(3) of the Small Business Act (15 U.S.C. 632(p)(3)) is amended to read as follows:

"(3) HUBZONE SMALL BUSINESS CONCERN.—The term 'HUBZone small business concern' means—

"(A) a small business concern that is owned and controlled by one or more persons, each of whom is a United States citizen;

"(B) a small business concern that is—

"(i) an Alaska Native Corporation owned and controlled by Natives (as determined pursuant to section 29(e)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)(1))); or

"(ii) a direct or indirect subsidiary corporation, joint venture, or partnership of an Alaska Native Corporation qualifying pursuant to section 29(e)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)(1)), if that subsidiary, joint venture, or partnership is owned and controlled by Natives (as determined pursuant to section 29(e)(2)) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)(2))); or

"(C) a small business concern—

"(i) that is wholly owned by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments; or

"(ii) that is owned in part by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments, if all other owners are either United States citizens or small business concerns.".

SEC. 603. QUALIFIED HUBZONE SMALL BUSINESS CONCERN.

(a) IN GENERAL.—Section 3(p)(5)(A)(i) of the Small Business Act (15 U.S.C. 632(p)(5)(A)(i)) is amended by striking subclauses (I) and (II) and inserting the following:

"(I) it is a HUBZone small business concern—

"(aa) pursuant to subparagraph (A) or (B) of paragraph (3), and that its principal office is located in a HUBZone and not fewer than 35 percent of its employees reside in a HUBZone; or

"(bb) pursuant to paragraph (3)(C), and not fewer than 35 percent of its employees engaged in performing a contract awarded to the small business concern on the basis of a preference provided under section 31(b) reside within any Indian reservation governed

by one or more of the tribal government owners, or reside within any HUBZone adjoining any such Indian reservation;

"(II) the small business concern will attempt to maintain the applicable employment percentage under subclause (I) during the performance of any contract awarded to the small business concern on the basis of a preference provided under section 31(b); and".

(b) CLARIFYING AMENDMENT.—Section 3(p)(5)(D)(i) of the Small Business Act (15 U.S.C. 632(p)(5)(D)(i)) is amended by inserting "once the Administrator has made the certification required by subparagraph (A)(i) regarding a qualified HUBZone small business concern and has determined that subparagraph (A)(ii) does not apply to that concern," before "include".

SEC. 604. OTHER DEFINITIONS.

Section 3(p) of the Small Business Act (15 U.S.C. 632(p)) is amended by adding at the end the following:

"(6) NATIVE AMERICAN SMALL BUSINESS CONCERNS.—

"(A) ALASKA NATIVE CORPORATION.—The term 'Alaska Native Corporation' has the same meaning as the term 'Native Corporation' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(B) ALASKA NATIVE VILLAGE.—The term 'Alaska Native Village' has the same meaning as the term 'Native village' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(C) INDIAN RESERVATION.—The term 'Indian reservation'—

"(i) has the same meaning as the term 'Indian country' in section 1151 of title 18, United States Code, except that such term does not include—

"(I) any lands that are located within a State in which a tribe did not exercise governmental jurisdiction on the date of the enactment of this paragraph, unless that tribe is recognized after that date of the enactment by either an Act of Congress or pursuant to regulations of the Secretary of the Interior for the administrative recognition that an Indian group exists as an Indian tribe (part 83 of title 25, Code of Federal Regulations); and

"(II) lands taken into trust or acquired by an Indian tribe after the date of the enactment of this paragraph if such lands are not located within the external boundaries of an Indian reservation or former reservation or are not contiguous to the lands held in trust or restricted status on that date of the enactment; and

"(ii) in the State of Oklahoma, means lands that—

"(I) are within the jurisdictional areas of an Oklahoma Indian tribe (as determined by the Secretary of the Interior); and

"(II) are recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations

(as in effect on the date of the enactment of this paragraph).".

Subtitle B—Other HUBZone Provisions

SEC. 611. DEFINITIONS.

(a) QUALIFIED CENSUS TRACT.—Section 3(p)(4)(A) of the Small Business Act (15 U.S.C. 632(p)(4)(A)) is amended by striking "(I)".

(b) QUALIFIED NONMETROPOLITAN COUNTY.—Section 3(p)(4) of the Small Business Act (15 U.S.C. 632(p)(4)) is amended by striking subparagraph (B) and inserting the following:

"(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term 'qualified nonmetropolitan county' means any county—

"(i) that was not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986) at the time of the most recent census taken for purposes of selecting qualified census tracts under section 42(d)(5)(C)(ii) of the Internal Revenue Code of 1986; and

"(ii) in which—

"(I) the median household income is less than 80 percent of the nonmetropolitan State median household income, based on the most recent data available from the Bureau of the Census of the Department of Commerce; or

"(II) the unemployment rate is not less than 140 percent of the Statewide average unemployment rate for the State in which the county is located, based on the most recent data available from the Secretary of Labor.".

SEC. 612. ELIGIBLE CONTRACTS.

(a) COMMODITIES CONTRACTS.—Section 31(b)(3) of the Small Business Act (15 U.S.C. 657a(b)(3)) is amended—

(1) by striking "In any" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), in any"; and

(2) by adding at the end the following:

"(B) PROCUREMENT OF COMMODITIES.—For purchases by the Secretary of Agriculture of agricultural commodities, the price evaluation preference shall be—

"(i) 10 percent, for the portion of a contract to be awarded that is not greater than 25 percent of the total volume being procured for each commodity in a single invitation;

"(ii) 5 percent, for the portion of a contract to be awarded that is greater than 25 percent, but not greater than 40 percent, of the total volume being procured for each commodity in a single invitation; and

"(iii) zero, for the portion of a contract to be awarded that is greater than 40 percent of the total volume being procured for each commodity in a single invitation.

"(C) TREATMENT OF PREFERENCE.—A contract awarded to a HUBZone small business concern under a preference

described in subparagraph (B) shall not be counted toward the fulfillment of any requirement partially set aside for competition restricted to small business concerns.".

(b) DEFINITIONS.—Section 3(p) of the Small Business Act (15 U.S.C. 632(p)), as amended by this Act, is amended—

(1) in paragraph (5)(A)(i)(III)—

(A) in item (aa), by striking "and" at the end; and

(B) by adding at the end the following:

"(cc) in the case of a contract for the procurement by the Secretary of Agriculture of agricultural commodities, none of the commodity being procured will be obtained by the prime contractor through a subcontract for the purchase of the commodity in substantially the final form in which it is to be supplied to the Government; and"; and

(2) by adding at the end the following:

"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the same meaning as in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).".

SEC. 613. HUBZONE REDESIGNATED AREAS.

Section 3(p) of the Small Business Act (15 U.S.C. 632(p)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(D) redesignated areas."; and

(2) in paragraph (4), by adding at the end the following:

"(C) REDESIGNATED AREA.—The term 'redesignated area' means any census tract that ceases to be qualified under subparagraph (A) and any nonmetropolitan county that ceases to be qualified under subparagraph (B), except that a census tract or a nonmetropolitan county may be a 'redesignated area' only for the 3-year period following the date on which the census tract or nonmetropolitan county ceased to be so qualified.".

SEC. 614. COMMUNITY DEVELOPMENT.

Section 3(p) of the Small Business Act (15 U.S.C. 632(p)), as amended by this Act, is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(D) a small business concern that is—

"(i) wholly owned by a community development corporation that has received financial assistance under part 1 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9805 et seq.); or

"(ii) owned in part by one or more community development corporations, if all other owners are either United States citizens or small business concerns."; and

(2) in paragraph (5)(A)(i)(I)(aa), by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (D)".

SEC. 615. REFERENCE CORRECTIONS.

(a) SECTION 3.—Section 3(p)(5)(C) of the Small Business Act (15 U.S.C. 632(p)(5)(C)) is amended by striking "subclause (IV) and (V) of subparagraph (A)(i)" and inserting "items (aa) and (bb) of subparagraph (A)(i)(III)".

(b) SECTION 8.—Section 8(d)(4)(D) of the Small Business Act (15 U.S.C. 637(d)(4)(D)) is amended by inserting "qualified HUBZone small business concerns," after "small business concerns,".

TITLE VII—NATIONAL WOMEN'S BUSINESS COUNCIL REAUTHORIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "National Women's Business Council Reauthorization Act of 2000".

SEC. 702. MEMBERSHIP OF THE COUNCIL.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by striking "Not later" and all that follows through "the President" and inserting "The President";

(2) in subsection (b)—

(A) by striking "Not later" and all that follows through "the Administrator" and inserting "The Administrator"; and

(B) by striking "the Assistant Administrator of the Office of Women's Business Ownership and";

(3) in subsection (d), by striking ", except that" and all that follows through the end of the subsection and inserting a period; and

(4) in subsection (h), by striking "Not later" and all that follows through "the Administrator" and inserting "The Administrator".

SEC. 703. REPEAL OF PROCUREMENT PROJECT.

Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is repealed.

SEC. 704. STUDIES AND OTHER RESEARCH.

Section 410 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 409. STUDIES AND OTHER RESEARCH.

"(a) IN GENERAL.—The Council may conduct such studies and other research relating to the award of Federal prime contracts and subcontracts to women-owned businesses, to access to credit and investment capital by women entrepreneurs, or to other issues relating to women-owned businesses, as the Council determines to be appropriate.

"(b) CONTRACT AUTHORITY.—In conducting any study or other research under this section, the Council may contract with one or more public or private entities.".

SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

Section 411 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $1,000,000, for each of fiscal years 2001 through 2003, of which $550,000 shall be available in each such fiscal year to carry out section 409.

"(b) BUDGET REVIEW.—No amount made available under this section for any fiscal year may be obligated or expended by the Council before the date on which the Council reviews and approves the operating budget of the Council to carry out the responsibilities of the Council for that fiscal year.".

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. LOAN APPLICATION PROCESSING.

(a) STUDY.—The Administrator of the Small Business Administration shall conduct a study to determine the average time that the Administration requires to process an application for each type of loan or loan guarantee made under the Small Business Act (15 U.S.C. 631 et seq.).

(b) TRANSMITTAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress the results of the study conducted under subsection (a).

SEC. 802. APPLICATION OF OWNERSHIP REQUIREMENTS.

(a) SMALL BUSINESS ACT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(30) OWNERSHIP REQUIREMENTS.—Ownership requirements to determine the eligibility of a small business concern that applies for assistance under any credit program under this Act shall be determined without regard to any ownership interest of a spouse arising solely from the application of the community property laws of a State for purposes of determining marital interests.".

(b) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding at the end the following:

"(6) OWNERSHIP REQUIREMENTS.—Ownership requirements to determine the eligibility of a small business concern that applies for assistance under any credit program under this title shall be determined without regard to any ownership interest of a spouse arising solely from the application of the community property laws of a State for purposes of determining marital interests.".

SEC. 803. SUBCONTRACTING PREFERENCE FOR VETERANS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1), by inserting "small business concerns owned and controlled by veterans," after "small business concerns," the first place that term appears in each of the first and second sentences;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting "small business concerns owned and controlled by service-disabled veterans," after "small business concerns owned and controlled by veterans," in each of the first and second sentences; and

(B) in subparagraph (F), by inserting "small business concern owned and controlled by service-disabled veterans," after "small business concern owned and controlled by veterans,"; and

(3) in each of paragraphs (4)(D), (4)(E), (6)(A), (6)(C), (6)(F), and (10)(B), by inserting "small business concerns owned and controlled by service-disabled veterans," after "small business concerns owned and controlled by veterans,".

SEC. 804. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM FUNDING.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Section 20(a)(1) of the Small Business Act (15 U.S.C. 631 note) is amended by striking "For fiscal year 1985" and all that follows through "expended." and inserting the following: "For fiscal year 2000 and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary and appropriate, to remain available until expended, and to be available solely—

"(A) to carry out the Small Business Development Center Program under section 21, but not to exceed the annual funding level, as specified in section 21(a);

"(B) to pay the expenses of the National Small Business Development Center Advisory Board, as provided in section 21(i);

"(C) to pay the expenses of the information sharing system, as provided in section 21(c)(8);

"(D) to pay the expenses of the association referred to in section 21(a)(3)(A) for conducting the certification program, as provided in section 21(k)(2); and

"(E) to pay the expenses of the Administration, including salaries of examiners, for conducting examinations as part of the certification program conducted by the association referred to in section 21(a)(3)(A).".

(2) TECHNICAL AMENDMENT.—Section 20(a) of the Small Business Act (15 U.S.C. 631 note) is amended by moving the margins of paragraphs (3) and (4), including subparagraphs (A) and (B) of paragraph (4), 2 ems to the left.

(b) FUNDING FORMULA.—Section 21(a)(4)(C) of the Small Business Act (15 U.S.C. 648(a)(4)(C)) is amended to read as follows:

"(C) FUNDING FORMULA.—

"(i) IN GENERAL.—Subject to clause (iii), the amount of a formula grant received by a State under this subparagraph shall be equal to an amount determined in accordance with the following formula:

"(I) The annual amount made available under section 20(a) for the Small Business Development Center

Program, less any reductions made for expenses authorized by clause (v) of this subparagraph, shall be divided on a pro rata basis, based on the percentage of the population of each State, as compared to the population of the United States.

"(II) If the pro rata amount calculated under subclause (I) for any State is less than the minimum funding level under clause (iii), the Administration shall determine the aggregate amount necessary to achieve that minimum funding level for each such State.

"(III) The aggregate amount calculated under subclause (II) shall be deducted from the amount calculated under subclause (I) for States eligible to receive more than the minimum funding level. The deductions shall be made on a pro rata basis, based on the population of each such State, as compared to the total population of all such States.

"(IV) The aggregate amount deducted under subclause (III) shall be added to the grants of those States that are not eligible to receive more than the minimum funding level in order to achieve the minimum funding level for each such State, except that the eligible amount of a grant to any State shall not be reduced to an amount below the minimum funding level.

"(ii) GRANT DETERMINATION.—The amount of a grant that a State is eligible to apply for under this subparagraph shall be the amount determined under clause (i), subject to any modifications required under clause (iii), and shall be based on the amount available for the fiscal year in which performance of the grant commences, but not including amounts distributed in accordance with clause (iv). The amount of a grant received by a State under any provision of this subparagraph shall not exceed the amount of matching funds from sources other than the Federal Government, as required under subparagraph (A).

"(iii) MINIMUM FUNDING LEVEL.—The amount of the minimum funding level for each State shall be determined for each fiscal year based on the amount made available for that fiscal year to carry out this section, as follows:

"(I) If the amount made available is not less than $81,500,000 and not more than $90,000,000, the minimum funding level shall be $500,000.

"(II) If the amount made available is less than $81,500,000, the minimum funding level shall be the remainder of $500,000 minus a percentage of $500,000 equal to the percentage amount by which the amount made available is less than $81,500,000.

"(III) If the amount made available is more than $90,000,000, the minimum funding level shall be the sum of $500,000 plus a percentage of $500,000 equal to the percentage amount by which the amount made available exceeds $90,000,000.

"(iv) DISTRIBUTIONS.—Subject to clause (iii), if any State does not apply for, or use, its full funding eligibility for a fiscal year, the Administration shall distribute the remaining funds as follows:

"(I) If the grant to any State is less than the amount received by that State in fiscal year 2000, the Administration shall distribute such remaining funds, on a pro rata basis, based on the percentage of shortage of each such State, as compared to the total amount of such remaining funds available, to the extent necessary in order to increase the amount of the grant to the amount received by that State in fiscal year 2000, or until such funds are exhausted, whichever first occurs.

"(II) If any funds remain after the application of subclause (I), the remaining amount may be distributed as supplemental grants to any State, as the Administration determines, in its discretion, to be appropriate, after consultation with the association referred to in subsection (a)(3)(A).

"(v) USE OF AMOUNTS.—

"(I) IN GENERAL.—Of the amounts made available in any fiscal year to carry out this section—

"(aa) not more than $500,000 may be used by the Administration to pay expenses enumerated in subparagraphs (B) through (D) of section 20(a)(1); and

"(bb) not more than $500,000 may be used by the Administration to pay the examination expenses enumerated in section 20(a)(1)(E).

"(II) LIMITATION.—No funds described in subclause (I) may be used for examination expenses under section 20(a)(1)(E) if the usage would reduce the amount of grants made available under clause (i)(I) of this subparagraph to less than $85,000,000 (after excluding any amounts provided in appropriations Acts for specific institutions or for purposes other than the general small business development center program) or would further reduce the amount of such grants below such amount.

"(vi) EXCLUSIONS.—Grants provided to a State by the Administration or another Federal agency to carry out subsection (a)(6) or (c)(3)(G), or for supplemental grants set forth in clause (iv)(II) of this subparagraph, shall not be included in the calculation of maximum funding for a State under clause (ii) of this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subparagraph $125,000,000 for each of fiscal years 2001, 2002, and 2003.

"(viii) STATE DEFINED.—In this subparagraph, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

SEC. 805. SURETY BONDS.

(a) CONTRACT AMOUNTS.—Section 411 of the Small Business Investment Act of 1958 (15 U.S.C. 694b) is amended—

(1) in subsection (a)(1), by striking "$1,250,000" and inserting "$2,000,000"; and

(2) in subsection (e)(2), by striking "$1,250,000" and inserting "$2,000,000".

(b) EXTENSION OF CERTAIN AUTHORITY.—Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "2000" and inserting "2003".

SEC. 806. SIZE STANDARDS.

(a) INDUSTRY CLASSIFICATIONS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended in the eighth sentence, by striking "four-digit standard" and all that follows through "published" and inserting "definition of a 'United States industry' under the North American Industry Classification System, as established".

(b) ANNUAL RECEIPTS.—Section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1)) is amended by striking "$500,000" and inserting "$750,000".

SEC. 807. NATIVE HAWAIIAN ORGANIZATIONS UNDER SECTION 8(a).

Section 8(a)(15)(A) of the Small Business Act (15 U.S.C. 637(a)(15)(A)) is amended to read as follows:

"(A) is a nonprofit corporation that has filed articles of incorporation with the director (or the designee thereof) of the Hawaii Department of Commerce and Consumer Affairs, or any successor agency,".

SEC. 808. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION CORRECTION.

Section 33(k) of the Small Business Act (15 U.S.C. 657c(k)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation to carry out this section—

"(A) $4,000,000 for fiscal year 2001;

"(B) $4,000,000 for fiscal year 2002;

"(C) $2,000,000 for fiscal year 2003; and

"(D) $2,000,000 for fiscal year 2004.";

(2) in paragraph (2)(A), by striking "2001" each place it appears and inserting "2002"; and

(3) in paragraph (2)(B), by striking "2002 or 2003" and inserting "2003 or 2004".

SEC. 809. PRIVATE SECTOR RESOURCES FOR SCORE.

Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)) is amended by adding at the end the following: "Notwithstanding any other provision of law, SCORE may solicit cash and in-kind contributions from the private sector to be used to carry out its functions under this Act, and may use payments made by the Administration pursuant to this subparagraph for such solicitation.".

SEC. 810. CONTRACT DATA COLLECTION.

Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following new subsection:

"(p) DATABASE, ANALYSIS, AND ANNUAL REPORT WITH RESPECT TO BUNDLED CONTRACTS.—

"(1) BUNDLED CONTRACT DEFINED.—In this subsection, the term 'bundled contract' has the meaning given such term in section 3(o)(1).

"(2) DATABASE.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator of the Small Business Administration shall develop and shall thereafter maintain a database containing data and information regarding—

"(i) each bundled contract awarded by a Federal agency; and

"(ii) each small business concern that has been displaced as a prime contractor as a result of the award of such a contract.

"(3) ANALYSIS.—For each bundled contract that is to be recompeted as a bundled contract, the Administrator shall determine—

"(A) the amount of savings and benefits (in accordance with subsection (e)) achieved under the bundling of contract requirements; and

"(B) whether such savings and benefits will continue to be realized if the contract remains bundled, and whether such savings and benefits would be greater if the procurement requirements were divided into separate solicitations suitable for award to small business concerns.

"(4) ANNUAL REPORT ON CONTRACT BUNDLING.—

"(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this paragraph, and annually in March thereafter, the Administration shall transmit a report on contract bundling to the Committees on Small Business of the House of Representatives and the Senate.

"(B) CONTENTS.—Each report transmitted under subparagraph (A) shall include—

"(i) data on the number, arranged by industrial classification, of small business concerns displaced as prime contractors as a result of the award of bundled contracts by Federal agencies; and

"(ii) a description of the activities with respect to previously bundled contracts of each Federal agency during the preceding year, including—

"(I) data on the number and total dollar amount of all contract requirements that were bundled; and

"(II) with respect to each bundled contract, data or information on—

"(aa) the justification for the bundling of contract requirements;

"(bb) the cost savings realized by bundling the contract requirements over the life of the contract;

"(cc) the extent to which maintaining the bundled status of contract requirements is projected to result in continued cost savings;

"(dd) the extent to which the bundling of contract requirements complied with the contracting agency's small business subcontracting plan, including the total dollar

value awarded to small business concerns as subcontractors and the total dollar value previously awarded to small business concerns as prime contractors; and

"(ee) the impact of the bundling of contract requirements on small business concerns unable to compete as prime contractors for the consolidated requirements and on the industries of such small business concerns, including a description of any changes to the proportion of any such industry that is composed of small business concerns.

"(5) ACCESS TO DATA.—

"(A) FEDERAL PROCUREMENT DATA SYSTEM.—To assist in the implementation of this section, the Administration shall have access to information collected through the Federal Procurement Data System.

"(B) AGENCY PROCUREMENT DATA SOURCES.—To assist in the implementation of this section, the head of each contracting agency shall provide, upon request of the Administration, procurement information collected through existing agency data collection sources.".

SEC. 811. PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

"(m) PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.—

"(1) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) CONTRACTING OFFICER.—The term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

"(B) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY WOMEN.—The term 'small business concern owned and controlled by women' has the meaning given such term in section 3(n), except that ownership shall be determined without regard to any community property law.

"(2) AUTHORITY TO RESTRICT COMPETITION.—In accordance with this subsection, a contracting officer may restrict competition for any contract for the procurement of goods or services by the Federal Government to small business concerns owned and controlled by women, if—

"(A) each of the concerns is not less than 51 percent owned by one or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law);

"(B) the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by women will submit offers for the contract;

"(C) the contract is for the procurement of goods or services with respect to an industry identified by the Administrator pursuant to paragraph (3);

"(D) the anticipated award price of the contract (including options) does not exceed—

"(i) $5,000,000, in the case of a contract assigned an industrial classification code for manufacturing; or

"(ii) $3,000,000, in the case of all other contracts;

"(E) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price; and

"(F) each of the concerns—

"(i) is certified by a Federal agency, a State government, or a national certifying entity approved by the Administrator, as a small business concern owned and controlled by women; or

"(ii) certifies to the contracting officer that it is a small business concern owned and controlled by women and provides adequate documentation, in accordance with standards established by the Administration, to support such certification.

"(3) WAIVER.—With respect to a small business concern owned and controlled by women, the Administrator may waive subparagraph (2)(A) if the Administrator determines that the concern is in an industry in which small business concerns owned and controlled by women are substantially underrepresented.

"(4) IDENTIFICATION OF INDUSTRIES.—The Administrator shall conduct a study to identify industries in which small business concerns owned and controlled by women are underrepresented with respect to Federal procurement contracting.

"(5) ENFORCEMENT; PENALTIES.—

"(A) VERIFICATION OF ELIGIBILITY.—In carrying out this subsection, the Administrator shall establish procedures relating to—

"(i) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this subsection (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under paragraph (2)(F)); and

"(ii) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under paragraph (2)(F).

"(B) EXAMINATIONS.—The procedures established under subparagraph (A) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under paragraph (2)(F).

"(C) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by women for purposes of this subsection, shall be subject to—

"(i) section 1001 of title 18, United States Code; and

"(ii) sections 3729 through 3733 of title 31, United States Code.

"(6) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.".