104TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
104–280

SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

R E P O R T

OF THE

COMMITTEE ON THE BUDGET HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 2491

A BILL TO PROVIDE FOR RECONCILIATION PURSUANT TO SECTION 105 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996

together with

MINORITY, ADDITIONAL, AND DISSENTING VIEWS

VOLUME I
TITLES I–XII

OCTOBER 17, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

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104TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 104–280, VOLUME I

PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 105 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996

OCTOBER 17, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KASICH, from the Committee on the Budget,

submitted the following

R E P O R T

together with

MINORITY, ADDITIONAL, AND DISSENTING VIEWS

[To accompany H.R. 2491]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom reconciliation recommendations were submitted pursuant to section 105 of House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal year 1996, having considered the same, report the bill without recommendation.

TITLE I—PROVISIONS OF GENERAL APPLICABILITY

SECTION 1001. SHORT TITLE.

This Act may be cited as the "Seven-Year Balanced Budget Reconciliation Act of 1995".

SEC. 1002. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Provisions of General Applicability
Title II—Committee on Banking and Financial Services
Title III—Committee on Commerce
Title IV—Committee on Economic and Educational Opportunities
Title V—Committee on Government Reform and Oversight
Title VI—Committee on International Relations
Title VII—Committee on the Judiciary
Title VIII—Committee on National Security
Title IX—Committee on Resources
Title X—Committee on Transportation and Infrastructure
Title XI—Committee on Veterans' Affairs
Title XII—Committee on Ways and Means-Trade
Title XIII—Committee on Ways and Means-Revenues
Title XIV—Committee on Ways and Means-Tax Simplification
Title XV—Medicare
Title XVI—Transformation of the Medicaid Program
Title XVII—Reorganization of the Department of Commerce
Title XVIII—Welfare Reform
Title XIX—Contract Tax Provisions
Title XX—Budget Process

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

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The table of contents for this title is as follows:

Subtitle A—Housing Provisions

Sec. 2101. Termination of RTC and FDIC affordable housing programs.
Sec. 2102. Elimination of FHA assignment program and foreclosure relief.
Sec. 2103. Reform of HUD-owned multifamily property disposition program.
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Sec. 2200. Short title.

CHAPTER 1—BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND

Sec. 2201. Special assessment.
Sec. 2202. Assessments on insured depository institutions.
Sec. 2203. Merger of Bank Insurance Fund and Savings Association Insurance Fund after recapitalization of SAIF.
Sec. 2204. Refund of amounts in deposit insurance fund in excess of designated reserve amount.
Sec. 2205. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.

CHAPTER 2—STATUS OF BANKS AND SAVINGS ASSOCIATIONS

Sec. 2221. Termination of Federal savings associations; treatment of State savings associations as banks for purposes of Federal banking law.
Sec. 2222. Treatment of certain activities and affiliations of bank holding companies resulting from this Act.
Sec. 2223. Transition provisions for activities of savings associations which convert into or become treated as banks.
Sec. 2224. Registration of bank holding companies resulting from conversions of savings associations to banks or treatment of savings associations as banks.
Sec. 2225. Additional transition provisions and special rules.
Sec. 2226. Technical and conforming amendments.
Sec. 2227. References to savings associations and State banks in Federal law.
Sec. 2228. Repeal of Home Owners' Loan Act.
Sec. 2229. Effective date; definitions.

CHAPTER 3—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Sec. 2241. Office of Thrift Supervision abolished.
Sec. 2242. Determination of transferred functions and employees.
Sec. 2243. Savings provisions.
Sec. 2244. References in Federal law to Director of the Office of Thrift Supervision.
Sec. 2245. Reconfiguration of board of directors of FDIC as a result of removal of Director of the Office of Thrift Supervision.

CHAPTER 4—LOAN LOSS RESERVE TREATMENT

Sec. 2261. Sense of the Congress.

Subtitle C—Community Reinvestment Act Amendments

Sec. 2301. Expression of congressional intent.
Sec. 2302. Community Reinvestment Act exemption.
Sec. 2303. Self-certification of CRA compliance.
Sec. 2304. Community input and conclusive rating.
Sec. 2305. Special purpose financial institutions.
Sec. 2306. Increased incentives for lending to low- and moderate-income communities.
Sec. 2307. Prohibition on additional reporting under CRA.
Sec. 2308. Technical amendment.
Sec. 2309. Duplicative reporting.
Sec. 2310. CRA congressional oversight.
Sec. 2311. Consultation among examiners.
Sec. 2312. Limitation on regulations.

Subtitle A—Housing Provisions

SEC. 2101. TERMINATION OF RTC AND FDIC AFFORDABLE HOUSING PROGRAMS.

(a) REPEAL OF UNIFIED PROGRAM AND TRANSFER OF RTC WINDUP AUTHORITY TO HUD.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by striking paragraph (17) and inserting the following new paragraph:

"(17) TRANSFER OF AUTHORITY.—The Secretary shall assume, not later than December 31, 1995, and thereafter shall carry out, any remaining authority and responsibilities of the Corporation to recapture excess proceeds from resale of properties and to monitor and enforce low-income occupancy requirements or rent limitations under this subsection and shall assume any direct or contingent liability of the Corporation to carry out such authority and responsibilities.".

(b) TERMINATION OF RTC AFFORDABLE HOUSING PROGRAM.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(18) TERMINATION.—

"(A) IN GENERAL.—On and after the date of the enactment of the Seven-Year Balanced Budget Reconciliation Act of 1995, the provisions of this subsection (other than paragraph (17)) shall not apply with respect to any eligible residential property or eligible condominium property.

"(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), the provisions of this subsection shall continue to apply on and after such date of enactment to any eligible residential property or eligible condominium property that—

"(i) has been sold or otherwise disposed of by the Corporation before such date of enactment; or

"(ii) is subject to a contract of sale or other disposition entered into before such date of enactment.".

(c) TERMINATION OF AFFORDABLE HOUSING ADVISORY BOARD.—Section 14(b)(9) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended by striking "September 30, 1998" and inserting "September 30, 1995".

(d) REPEAL OF FDIC PROGRAM AND TRANSFER OF WINDUP AUTHORITY TO HUD.—

(1) REPEAL.—Section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q) is hereby repealed.

(2) TRANSFER OF WINDUP AUTHORITY.—Notwithstanding paragraph (1)—

(A) effective December 31, 1995, the Secretary shall carry out any remaining authority and responsibilities of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act to recapture excess proceeds from resale of properties and to monitor and enforce low-income occupancy requirements or rent limitations under such section and shall assume any direct or contingent liability of the Corporation to carry out such authority and responsibilities; and

(B) the Federal Deposit Insurance Corporation shall consummate any sales of property under section 40 of such Act that were pending under contracts of sale on September 30, 1995.

(e) FDIC DISPOSITION OF ASSETS AS CONSERVATOR OR RECEIVER.—Section 11(d)(13)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)(E)) is amended—

(1) in clause (iii), by inserting "and" after the semicolon;

(2) in clause (iv), by striking "; and" and inserting a period; and

(3) by striking clause (v).

(f) DISPOSITION OF FDIC ASSETS.—Section 13(d)(3)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)(D)) is amended—

(1) in clause (iii), by inserting "and" after the semicolon;

(2) in clause (iv), by striking "; and" and inserting a period; and

(3) by striking clause (v).

SEC. 2102. ELIMINATION OF FHA ASSIGNMENT PROGRAM AND FORECLOSURE RELIEF.

(a) ELIMINATION OF TMAP AND ASSIGNMENT PROGRAM.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is hereby repealed.

(b) PROHIBITION OF FORECLOSURE AVOIDANCE RELIEF.—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended by adding at the end the following new subsection:

"(m) PROHIBITION OF FORECLOSURE AVOIDANCE RELIEF.—Notwithstanding any provision of this section, any other provision of this Act, section 2 of the Housing Act of 1949, section 2 of the Housing and Urban Development Act of 1968, or any other provision of law, after September 30, 1995, the Secretary of Housing and Urban Development may not provide foreclosure avoidance relief to any mortgagor who has defaulted in making payments under a mortgage covering a 1-, 2-, 3-, or 4-family residence insured under this Act.".

SEC. 2103. REFORM OF HUD-OWNED MULTIFAMILY PROPERTY DISPOSITION PROGRAM.

(a) IN GENERAL.—Effective October 1, 1995, section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

"(a) IN GENERAL.—The Secretary of Housing and Urban Development may manage and dispose of (1) multifamily housing projects that are owned by the Secretary or that are subject to mortgages held by the Secretary, and (2) mortgages on multifamily housing projects that are held by the Secretary, without regard to any other provision of law.

"(b) AUTHORITY TO DELEGATE.—The Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages on multifamily housing projects held by the Secretary.

"(c) DEFINITION.—For purposes of this section, the term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.".

(b) CONFORMING AMENDMENTS.—

(1) NONDISCRIMINATION AGAINST CERTIFICATE AND VOUCHER HOLDERS.—Section 183(c) of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note) is amended by striking "section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act" and inserting "section 203(b) of the Housing and Community Development Amendments of 1978 (as in effect before October 1, 1995)".

(2) LIHPRH ACT OF 1990.—Section 212(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102(c)) is amended by striking the last sentence.

(3) HOPE HOMEOWNERSHIP PROGRAM.—Section 427 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12877) is amended by striking "subject to—" and all that follows and inserting "subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990.".

(4) FHA MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(k) of the National Housing Act (12 U.S.C. 1713(k)) is amended by striking the third sentence.

(5) MULTIFAMILY MORTGAGE FORECLOSURE ACT OF 1981.—Section 367(b)(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C.3706(b)(2)) is amended—

(A) by striking subparagraph (B); and

(B) by striking "(A)".

(6) PREVENTING MORTGAGE DEFAULTS ON INSURED MULTIFAMILY PROJECTS.—Section 103(h)(2)(B) of the Multifamily Housing Property Disposition Reform Act of 1994 (12 U.S.C. 1715z–1a note) is amended by inserting "(as in effect before October 1, 1995)" after "1978".

SEC. 2104. RECAPTURE OF RURAL HOUSING LOAN SUBSIDIES BY RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

The first sentence of section 521(a)(1)(D)(i) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)(i)) is amended by inserting "upon the repayment of any loan made under this title or" after "assistance rendered".

SEC. 2105. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

Subtitle B—Thrift Charter Conversion

SEC. 2200. SHORT TITLE.

This subtitle may be cited as the "Thrift Charter Conversion Act of 1995".

CHAPTER 1—BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND

SEC. 2201. SPECIAL ASSESSMENT.

Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(1) by redesignating clauses (i), (ii), and (iii) of subparagraph (A) as subclauses (I), (II), and (III), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by moving the left margin of such clauses and subclauses (as so redesignated) 2 ems to the right;

(4) by striking "SPECIAL ASSESSMENTS.—In addition to" and inserting "SPECIAL ASSESSMENTS.—

"(A) IN GENERAL.—In addition to"; and

(5) by adding at the end the following new subparagraphs:

"(B) SINGLE ADDITIONAL SPECIAL ASSESSMENT WITH RESPECT TO CERTAIN ACCOUNTS.—

"(i) IN GENERAL.—The Corporation shall impose, on the basis of such factors as the Board of Directors considers to be appropriate, a single special assessment on the institutions described in the following subclauses (other than institutions exempt under subparagraph (C)):

"(I) Each Savings Association Insurance Fund member (including any Savings Association Insurance Fund member referred to in section 5(d)(2)(G)).

"(II) Each Bank Insurance Fund member which has deposits which are treated, under section 5(d)(3), as deposits which are insured by the Savings Association Insurance Fund.

"(ii) AMOUNT OF ASSESSMENT.—The assessment imposed under clause (i) shall be in an amount equal to such percentage of the Savings Association Insurance Fund assessment base (of the institutions subject to such assessment) as of March 31, 1995, as the Board of Directors determines, in the Board of Directors' discretion, to be necessary in order for the reserve ratio of the Savings Association Insurance Fund to meet the designated reserve ratio on the 1st business day of January, 1996.

"(iii) DEPOSIT OF ASSESSMENT.—Notwithstanding any other provision of law, the proceeds of any assessment imposed under clause (i) shall be deposited in the Savings Association Insurance Fund.

"(iv) DATE PAYMENT DUE.—The special assessment imposed under this subparagraph shall be—

"(I) due on the 1st business day of January, 1996; and

"(II) paid to the Corporation on the later of the due date or such other date as the Corporation may prescribe which may not be later than the end of the 60-day period beginning on the date of the Thrift Charter Conversion Act of 1995.

"(v) SAVINGS ASSOCIATION INSURANCE FUND ASSESSMENT BASE DEFINED.—For purposes of this subparagraph, the term Savings Association Insurance Fund assessment base means—

"(I) the assessment base of Savings Association Insurance Fund members on which assessments are imposed under the risk-

based assessment system established pursuant to paragraph (1); and

"(II) in the case of an institution described in clause (i)(II), the adjusted attributable deposit amount determined under subparagraph (C) of section 5(d)(3) for purposes of subparagraph (B)(i) of such section.

"(C) SPECIAL RULES FOR CERTAIN EXEMPT INSTITUTIONS.—

"(i) IN GENERAL.—The Board of Directors may exempt any weak insured depository institution from the payment of the assessment imposed under subparagraph (B)(i) if the exemption would reduce risk to the Savings Association Insurance Fund.

"(ii) CONTINUATION OF ASSESSMENT RATES APPLICABLE AS OF JUNE 30, 1995.—Notwithstanding any other provision of this subsection or any determination by the Corporation pursuant to paragraph (2), the semiannual assessment rate applicable under paragraph (2) during the period beginning on January 1, 1996, and ending on December 31, 1999, with respect to any insured depository institution which receives an exemption under clause (i) shall be the semiannual assessment rate which would be applicable to such institution under paragraph (2) if such assessment rate were calculated in the manner in which semiannual assessment rates for Savings Association Insurance Fund members were determined by the Corporation under such paragraph as of June 30, 1995.

"(iii) SPECIAL RULE FOR OAKAR BANKS.—If an insured depository institution to which clause (ii) applies is an institution described in subparagraph (B)(i)(II), section 5(d)(3) (as in effect on September 13, 1995) shall continue to apply with respect to such institution for purposes of clause (ii) without regard to the repeal of such section by section 2202(c) of the Thrift Charter Conversion Act of 1995.

"(iv) DEPOSIT OF ASSESSMENT.—Assessments imposed under paragraph (2) in accordance with clause (i) on depository institutions to which such clause applies shall be deposited—

"(I) in the Savings Association Insurance Fund until such fund is merged into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995; and

"(II) after such merger, in the deposit insurance fund.

"(v) GUIDELINES.—

"(I) GUIDELINES REQUIRED.—Not later than 30 days after the date of the enactment of the Thrift Charter Conversion Act of 1995, the Board of Directors shall prescribe guidelines containing the criteria to be used by the Board of Directors in making any determination under clause (i).

"(II) PUBLICATION.—The guidelines prescribed under subclause (I) shall be published in the Federal Register.

"(D) PRO RATA PAYMENT OF SPECIAL ASSESSMENT BY EXEMPT INSTITUTIONS AUTHORIZED.—In the case of any depository institution which receives an exemption under subparagraph (C)(i) from the special assessment imposed under subparagraph (B) and any successor to such institution, subparagraph (C)(ii) shall cease to apply with respect to such institution as of the date on which the institution makes a payment to the Corporation, on such terms as the Board of Directors may prescribe, in an amount equal to the product of—

"(i) 12.5 percent of the product of—

"(I) the Savings Association Insurance Fund assessment base of the institution which would have been used in the calculation of the amount of such special assessment if the institution had not received the exemption from such assessment; and

"(II) the percentage rate calculated by the Board of Directors under subparagraph (B)(ii) for use in determining the amount of the special assessment for depository institutions which did not receive an exemption under subparagraph (C); and

"(ii) the whole number of full semiannual periods which begin after the date of such payment and end before January 1, 2000.

"(E) ASSESSMENT FOR CERTAIN DEPOSITS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, in carrying out the special assessment under subparagraph (B), the Corporation may set assessment rates on the basis of the factors described

in clause (iii) for deposits treated under section 5(d)(3) as deposits insured by the Savings Association Insurance Fund.

"(ii) MINIMUM RATE.—Notwithstanding clause (i), any rate assessed under such clause may not be less than 2/3 of the assessment rate imposed under subparagraph (B).

"(iii) FACTORS.—In setting any assessment rate under clause (i), the Corporation shall consider the following factors:

"(I) The extent to which deposits treated under section 5(d)(3) as deposits insured by the Savings Association Insurance Fund do not reflect the actual amount of deposits insured by such fund because of the growth attribution rule contained in clause (iii) of such section.

"(II) The ability of an insured depository institution to demonstrate with deposit data the amount of actual deposits which should be treated as deposits insured by the Savings Association Insurance Fund notwithstanding the growth attribution rule referred to in subclause (I).

"(iv) NO NET BUDGET EFFECT.—Notwithstanding any other provision of this subparagraph, the Corporation shall not set any assessment rate under clause (i) that would result in an increased budget outlay or a decrease in offsetting receipts under this paragraph.".

SEC. 2202. ASSESSMENTS ON INSURED DEPOSITORY INSTITUTIONS.

(a) FINANCING CORPORATION ASSESSMENTS ON ALL FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 21(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441(f)) is amended—

(1) in the portion of paragraph (2) which precedes subparagraph (A)—

(A) by striking "each Savings Association Insurance Fund member" and inserting "each insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act)"; and

(B) by striking "such members" and inserting "such institutions"; and

(2) by striking ", except that—" and all that follows through the end of the paragraph and inserting ", except that the Financing Corporation shall have first priority to make the assessment.".

(b) ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.—Section 7(b)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(F)) is amended—

(1) by striking "and" at the end of clause (i);

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

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

"(iii) notwithstanding any other provision of this subsection, assessment rates for Savings Association Insurance Fund members may not be less than assessment rates for Bank Insurance Fund members.".

(c) REPEAL OF EXIT MORATORIUM AND OAKAR BANK PROVISIONS.—Effective January 1, 1998, section 5(d) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)) is amended by striking paragraphs (2) and (3).

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7(b)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(D)) is amended by striking "Savings Association Insurance Fund members" and inserting "members of a deposit insurance fund".

(2) Section 21(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441(k)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall take effect on January 1, 1996.

SEC. 2203. MERGER OF BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND AFTER RECAPITALIZATION OF SAIF.

(a) ESTABLISHMENT OF DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Effective January 1, 1998, section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

"(5) DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established a fund to be known as the deposit insurance fund which shall—

"(i) be maintained and administered by the Corporation; and

"(ii) initially consist of the assets and liabilities of the Bank Insurance Fund and Savings Association Insurance Fund which have been

merged by the Corporation into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995, other than any assets of the Savings Association Insurance Fund which have been deposited in the special reserve of the deposit insurance fund pursuant to section 2203(b)(2) of such Act.

"(B) USES.—The deposit insurance fund shall be available to the Corporation for use in carrying out the insurance purposes of the Corporation in accordance with this Act with respect to insured depository institutions.

"(C) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the deposit insurance fund.".

(2) MERGER BY CORPORATION.—Except with respect to any assets of the Savings Association Insurance Fund which are required to be deposited in the special reserve of the deposit insurance fund pursuant to subsection (b)(2), the Corporation shall merge the Bank Insurance Fund and the Savings Association Insurance Fund on January 1, 1998, into the deposit insurance fund established by the amendment made by paragraph (1).

(b) ESTABLISHMENT OF SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Effective January 1, 1998, section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended to read as follows:

"(6) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

"(A) IN GENERAL.—There is established a fund to be known as the special reserve of the deposit insurance fund which shall—

"(i) be maintained and administered by the Corporation; and

"(ii) initially consist of amounts deposited in the special reserve pursuant to section 2203(b)(2) of the Thrift Charter Conversion Act of 1995.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—

"(i) USE AUTHORIZED.—Subject to clause (ii) and notwithstanding subparagraph (C), the Corporation may, in the sole discretion of the Board of Directors, transfer amounts from the special reserve for deposit in the deposit insurance fund for use in accordance with paragraph (5)(B).

"(ii) CONDITIONS ON TRANSFER.—The Board of Directors may authorize a transfer under clause (i) only if—

"(I) the Board of Directors determines that the reserve ratio of the deposit insurance fund is less than 50 percent of the designated reserve ratio; and

"(II) the Board of Directors finds that the reserve ratio of the deposit insurance will likely be less than the designated reserve ratio of the fund for each of the 4 calendar quarters beginning after the date of such determination.

"(C) NO REFUNDS OR OTHER USES AUTHORIZED.—Except as provided in subparagraph (B), the Corporation may not make any payment from the special reserve, make any refund or provide any credit to any insured depository institution with respect to any amount in the special reserve, or use any amount in the special reserve for any other purpose (including the use of any such amount as security for the repayment of any obligation of the Corporation).

"(D) EXCLUSION OF SPECIAL RESERVE IN CALCULATING THE RESERVE RATIO.—No amount in the special reserve may be taken into account in calculating the reserve ratio of the deposit insurance fund under section 7.".

(2) TRANSFER AND DEPOSIT BY CORPORATION.—If, at the time of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to subsection (a)(2), the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the Corporation shall transfer from such fund to the special reserve of the deposit insurance fund established by the amendment made by paragraph (1) an amount equal to the amount which causes the reserve ratio of the Savings Association Insurance Fund to exceed the designated reserve ratio.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate" and inserting "the deposit insurance fund established under section 11(a)(5)".

(2) Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by striking paragraphs (4)(A) and (7).

(3) Section 5(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(1)) is amended—

(A) in subparagraph (A), by striking "reserve ratios" and all that follows through the period and inserting "the reserve ratio of the deposit insurance fund.";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(4) Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking subsection (l).

(5) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (B), (F), and (G);

(B) in clauses (i) and (iv) of subparagraph (A), by striking "each deposit insurance fund" and inserting "the deposit insurance fund";

(C) in subparagraph (A)(iii), by striking "a deposit insurance fund" and inserting "the deposit insurance fund"; and

(D) by inserting after subparagraph (E) the following new subparagraph:

"(F) RESERVE RATIO DEFINED.—For purposes of this subsection, the term 'reserve ratio' means the ratio of the net worth of the deposit insurance fund to the aggregate estimated insured deposits held in all insured depository institutions.".

(6) Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended—

(A) in subparagraph (A) by striking "any deposit insurance fund" and inserting "the deposit insurance fund"; and

(B) by striking subparagraphs (C) and (D).

(7) Subparagraph (A) of section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) (as so redesignated by section 2201 of this subtitle) is amended—

(A) in clause (i)—

(i) by inserting "or" after the semicolon at the end of subclause (I);

(ii) by striking subclause (II); and

(iii) by striking "; and" at the end of subclause (III) and inserting a period; and

(B) by striking clause (ii).

(8) Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "deposit insurance fund".

(9) Paragraph (1) of section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking "depositor, except that—" and all that follows through the period at the end of the paragraph and inserting "depositor.".

(10) Section 11(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (C), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)".

(11) Section 11A(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)(3)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "deposit insurance fund".

(12) Section 11A(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(f)) is amended by striking "Savings Association Insurance Fund" and inserting "deposit insurance fund".

(13) Section 13(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(a)(1)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "deposit insurance fund, the special reserve of the deposit insurance fund,".

(14) Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended—

(A) by striking "appropriate insurance fund" and inserting "deposit insurance fund";

(B) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(C) by striking "each member's" and inserting "each insured depository institution's"; and

(D) by striking "the member's" each place such term appears and inserting "the institution's".

(15) Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by striking paragraph (11).

(16) Section 13(h) of the Federal Deposit Insurance Act (12 U.S.C. 1823(h)) is amended by striking "Bank Insurance Fund" and inserting "deposit insurance fund".

(17) Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "deposit insurance fund"; and

(B) by striking "each such fund" and inserting "the fund".

(18) Section 14(b) of the Federal Deposit Insurance Act (12 U.S.C. 1824(b)) is amended by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "deposit insurance fund".

(19) Section 14(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(c)) is amended by striking paragraph (3).

(20) Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by striking subsection (d).

(21) Section 15(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)(5)) is amended—

(A) by striking "Bank Insurance Fund or Savings Association Insurance Fund, respectively," and inserting "deposit insurance fund";

(B) by striking "Bank Insurance Fund or Savings Association Insurance Fund, respectively;" and inserting "deposit insurance fund;"; and

(C) by striking "Bank Insurance Fund or the Savings Association Insurance Fund, respectively," and inserting "deposit insurance fund,".

(22) Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "deposit insurance fund".

(23) Section 17(d) of the Federal Deposit Insurance Act (12 U.S.C. 1827(d)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "deposit insurance fund".

(24) The heading for section 17(a) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)) is amended by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND".

(25) Subsections (a)(1) and (d)(1)(A) of section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) are each amended by striking "appropriate".

(26) Section 24(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(e)(2)) is amended—

(A) in subparagraph (A), by striking "of which such banks are members"; and

(B) in subparagraph (B)(ii), by striking "of which such bank is a member".

(27) Section 24(f)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(f)(6)(B)) is amended by striking "of which such bank is a member".

(28) Section 31 of the Federal Deposit Insurance Act (12 U.S.C. 1831h) is hereby repealed.

(29) Section 36(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)(3)) is amended by striking "affected".

(30) Section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) is amended by striking subsection (o).

(31) Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended to read as follows:

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation each calendar year an amount equal to 22.63 percent of the bank's net earnings for the year for which such amount is required to be paid.".

(d) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 1998.

SEC. 2204. REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS.—

"(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

"(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if as of the end of any semiannual period the amount of the actual reserves in—

"(i) the Bank Insurance Fund (until the merger of such fund into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995); or

"(ii) the deposit insurance fund (after the establishment of such fund under section 2203(a)(1) of such Act),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to members of the fund by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

"(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.".

SEC. 2205. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is amended in the portion of such section preceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".

(b) LIMITATION ON ASSESSMENT.—Section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

"(iii) LIMITATION ON ASSESSMENT.—The Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

"(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.".

CHAPTER 2—STATUS OF BANKS AND SAVINGS ASSOCIATIONS

SEC. 2221. TERMINATION OF FEDERAL SAVINGS ASSOCIATIONS; TREATMENT OF STATE SAVINGS ASSOCIATIONS AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.

(a) TERMINATION OF FEDERAL SAVINGS ASSOCIATION CHARTERS.—

(1) IN GENERAL.—Each Federal savings association shall—

(A) convert to a national bank charter;

(B) convert to a State depository institution charter; or

(C) surrender the charter of such savings association and liquidate the institution.

(2) CONVERSION TO NATIONAL BANK BY OPERATION OF LAW.—If any Federal savings association has not taken any action required under paragraph (1) as of January 1, 1998, the savings association shall—

(A) become a national bank on such date by operation of law;

(B) immediately file articles of association and an organizational certificate with the Comptroller of the Currency in accordance with sections 5133, 5134, and 5135 of the Revised Statutes of the United States; and

(C) cease to exist as a Federal savings association as of such date.

(3) PROHIBITION ON NEW CHARTERS OF FEDERAL SAVINGS ASSOCIATIONS.—The Director of the Office of Thrift Supervision may not grant any charter for a Federal savings association for which an application was received after the date of the enactment of this Act.

(b) TREATMENT OF STATE SAVINGS ASSOCIATIONS AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.—

(1) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(A) by striking paragraph (2) of subsection (a) and inserting the following new paragraph:

"(2) STATE BANK.—

"(A) IN GENERAL.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), building and loan association, savings and loan association, homestead association, cooperative bank, or other banking institution—

"(i) which is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

"(ii) which—

"(I) is incorporated under the laws of any State;

"(II) is organized and operating according to the laws of the State in which such institution is chartered or organized; or

"(III) is operating under the Code of Law for the District of Columbia (except a national bank).

"(B) CERTAIN INSURED BANKS INCLUDED.—The term 'State bank' includes any cooperative bank or other unincorporated bank the deposits of which were insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(C) CERTAIN UNINSURED BANKS EXCLUDED.—The term 'State bank' does not include any cooperative bank or other unincorporated bank the deposits of which were not insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989."; and

(B) in subsection (q)—

(i) by inserting "and" after the semicolon at the end of paragraph (2);

(ii) by striking "; and" at the end of paragraph (3) and inserting a period; and

(iii) by striking paragraph (4).

(2) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(A) by striking subparagraph (E) of subsection (a)(5); and

(B) by striking subparagraphs (B) and (J) of subsection (c)(2).

(3) AMENDMENTS TO THE FEDERAL RESERVE ACT.—The 2d and 3d paragraphs of the 1st section of the Federal Reserve Act (12 U.S.C. 221) are each amended by inserting "(as defined in section 3(a)(2) of the Federal Deposit Insurance Act)" after "State bank".

SEC. 2222. TREATMENT OF CERTAIN ACTIVITIES AND AFFILIATIONS OF BANK HOLDING COMPANIES RESULTING FROM THIS ACT.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF COMPANIES RESULTING FROM SAVINGS AND LOAN HOLDING COMPANIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than paragraph (5)) or any other provision of Federal law including sections 20 and 32 of the Banking Act of 1933, a qualified bank holding company may, after such company becomes a bank holding company—

"(A) maintain or enter into any nonbanking affiliation which such company was authorized to maintain or enter into as of September 22, 1995, or was authorized to maintain following a merger of insured depository institution subsidiaries pursuant to an application filed no later than such date; and

"(B) engage, directly or through any affiliate described in subparagraph (A) which is not a bank, in any activity in which such company or any affiliate described in subparagraph (A) was authorized to engage as of September 22, 1995, or in which such company was authorized to engage following a merger of insured depository institution subsidiaries pursuant to an application filed no later than such date,

if the requirements of paragraph (4) are met.

"(2) QUALIFIED BANK HOLDING COMPANY DEFINED.—For purposes of this subsection, the term 'qualified bank holding company' means—

"(A) any company which—

"(i) as of September 13, 1995, is a savings and loan holding company and is not a bank holding company; and

"(ii) becomes a bank holding company after such date; and

"(B) any bank holding company which as of September 13, 1995—

"(i) is a savings and loan holding company; and

"(ii) is exempt from this section pursuant to an order issued by the Board under subsection (d).

"(3) NO LOSS OF SUBSECTION (d) EXEMPTION.—No qualified bank holding company described in paragraph (2)(B) shall lose the grounds for the exemption under subsection (d) because a savings association which such company controlled, directly or indirectly, as of September 13, 1995, becomes a bank after such date so long as such bank continues to meet the requirements of subparagraphs (A) and (B) of paragraph (4).

"(4) PREREQUISITES FOR CONTINUATION OF GRANDFATHERED ACTIVITIES AND AFFILIATIONS.—This subsection shall cease to apply with respect to a qualified bank holding company if, at any time after such company first meets the definition of a qualified bank holding company—

"(A) any insured depository institution controlled by such company which, as of the day before the company first meets the definition of a qualified bank holding company, was subject to the requirements contained in section 10(m) of the Home Owners' Loan Act, as in effect on such date, (and regulations in effect on such date under such section) for treatment as a qualified thrift lender under such section fails to meet such requirements;

"(B) any insured depository institution controlled by such company fails to comply with any limitation or restriction on the type or amounts of loans or investments of the institution to which such institution was subject as of the date of the enactment of the Thrift Charter Conversion Act of 1995; or

"(C) the company or any subsidiary of the company acquires more than 5 percent of the shares or assets of any bank or insured institution after September 13, 1995.

"(5) NONTRANSFERABLE.—This subsection shall not apply with respect to any qualified bank holding company if, after September 13, 1995, any person acquires, directly or indirectly, control of the company or the company is the subject of any merger, consolidation, or other similar transaction.

"(6) PROHIBITION ON CERTAIN INSURED DEPOSITORY INSTITUTIONS IDENTIFYING THEMSELVES AS NATIONAL BANKS.—

"(A) IN GENERAL.—Notwithstanding the requirement of section 5134 of the Revised Statutes of the United States—

"(i) the name of an insured depository institution subsidiary of a qualified bank holding company which—

"(I) as of the date of the enactment of the Thrift Charter Conversion Act of 1995, is a savings and loan holding company described in section 10(c)(3) of the Home Owners' Loan Act (as in effect on such date); and

"(II) is subject to the restrictions contained in paragraph (3), may not include the term 'national'; and

"(ii) such insured depository institution may not be identified as a national bank on any sign displayed by the institution or in any advertisement or other publication of the institution.

"(B) DEPOSITORY INSTITUTION NOT LIABLE FOR FRAUDULENT MISREPRESENTATION FOR NOT REPRESENTING ITSELF AS A NATIONAL BANK.—An insured depository institution which is subject to subparagraph (A) shall not be liable for any civil or criminal penalty under any Federal or State consumer protection law, or in any criminal or civil action, for fraudulently misrepresenting the nature of the charter of the institution, for falsely advertising the status of the institution, for making a false statement with respect to the status of the institution, or for any similar offense by reason of the institution's compliance with such subparagraph.

"(7) ENFORCEMENT.—In addition to any other power of the Board, the Board may enforce compliance with the provisions of this subsection with respect to any qualified bank holding company and any bank controlled by such company under section 8 of the Federal Deposit Insurance Act.".

SEC. 2223. TRANSITION PROVISIONS FOR ACTIVITIES OF SAVINGS ASSOCIATIONS WHICH CONVERT INTO OR BECOME TREATED AS BANKS.

Notwithstanding any other provision of Federal law, any insured depository institution which, as of September 13, 1995, is a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (as in effect on such date)) and after such date converts to a national or State bank charter or becomes treated as a State bank pursuant to the amendment made by section 2221(b) may continue to engage, directly or indirectly, in any activity in which such institution was lawfully engaged as of such date during the 5-year period beginning on the effective date of such conversion or the effective date of such amendments, as the case may be.

SEC. 2224. REGISTRATION OF BANK HOLDING COMPANIES RESULTING FROM CONVERSIONS OF SAVINGS ASSOCIATIONS TO BANKS OR TREATMENT OF SAVINGS ASSOCIATIONS AS BANKS.

Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

"(h) REGISTRATION OF CERTAIN BANK HOLDING COMPANIES.—A company which, as of September 13, 1995, is a savings and loan holding company (as defined in section 10(a)(1)(D) of Home Owners' Loan Act (as in effect on such date)) and is not a bank holding company shall not be required to obtain the approval of the Board under subsection (a) to become a bank holding company after September 13, 1995, as a result of the conversion of any insured depository institution subsidiary of such company into a bank or by virtue of the treatment of any insured depository institution subsidiary of such company as a bank pursuant to the amendments made by the Thrift Charter Conversion Act of 1995, if such company—

"(1) registers as a bank holding company with the Board in accordance with section 5(a); and

"(2) does not acquire, directly or indirectly, ownership or control of any additional insured depository institution or other company in connection with such conversion or treatment.

"(i) REGULATION OF QUALIFIED BANK HOLDING COMPANIES.—The Board shall regulate qualified bank holding companies (as defined in section 4(k)(2)) in a manner consistent with—

"(1) the regulation of such companies by the Director of the Office of Thrift Supervision before the date of the enactment of the Thrift Charter Conversion Act of 1995; and

"(2) the safety and soundness of insured depository institution subsidiaries of such companies.".

SEC. 2225. ADDITIONAL TRANSITION PROVISIONS AND SPECIAL RULES.

(a) MUTUAL NATIONAL BANKS AUTHORIZED; CONVERSION OF MUTUAL SAVINGS ASSOCIATIONS INTO NATIONAL BANKS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5133 the following new section:

"SEC. 5133A. MUTUAL NATIONAL BANKS.

"(a) IN GENERAL.—Notwithstanding the paragraph designated the "Third" of section 5134, the Comptroller of the Currency may charter national banks organized in the mutual form either de novo or through a conversion of any stock national or State bank (as defined in section 3 of the Federal Deposit Insurance Act) or any State mutual bank or credit union, subject to regulations prescribed by the Comptroller of the Currency in accordance with this section.

"(b) REGULATIONS.—

"(1) TRANSITION RULES.—National banks organized in the mutual form shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on September 13, 1995, including parts 543, 544, 546, 563b, and 563c of chapter V of title 12 of the Code of Federal Regulations (as in effect on such date), during the 3-year period beginning on the date of the enactment of the Thrift Charter Conversion Act of 1995.

"(2) REGULATIONS OF THE COMPTROLLER.—The Comptroller of the Currency shall prescribe appropriate regulations for national banks organized in the mutual form, effective as of the end of the 3-year period referred to in paragraph (1).

"(3) APPLICABILITY OF CAPITAL STOCK REQUIREMENTS.—The Comptroller of the Currency shall prescribe regulations regarding the manner in which requirements of title LXII of the Revised Statutes of the United States with respect to capital stock, and limitations imposed on national banks under such

title based on capital stock, shall apply to national banks organized in mutual form pursuant to subsection (a).

"(c) CONVERSIONS.—

"(1) CONVERSION TO STOCK NATIONAL BANK.—Subject to subsection (b)(1) and, after the end of the 3-year period referred to in such subsection, such regulations as the Comptroller of the Currency may prescribe for the protection of depositors' rights and for any other purpose the Comptroller of the Currency may consider appropriate, any national bank which is organized in mutual form pursuant to paragraph (1) may reorganize as a stock national bank.

"(2) CONVERSIONS TO STATE BANKS.—Any national mutual bank may convert to a State bank charter in accordance with regulations prescribed by the Comptroller of the Currency and applicable State law.".

(2) MUTUAL BANK HOLDING COMPANIES.—Subsection (g) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)) is amended to read as follows:

"(g) MUTUAL BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—A national mutual bank may reorganize so as to become a holding company by—

"(A) chartering an interim national bank, the stock of which is to be wholly owned, except as otherwise provided in this section, by the national mutual bank; and

"(B) transferring the substantial part of the national mutual bank's assets and liabilities, including all of the bank's insured liabilities, to the interim national bank.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the national mutual bank; and

"(B) in the case of a national mutual bank in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the bank's charter and bylaws.

"(3) NOTICE TO THE BOARD; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—

"(i) IN GENERAL.—At least 60 days before taking any action described in paragraph (1), a national mutual bank seeking to establish a mutual holding company shall provide written notice to the Board.

"(ii) CONTENTS OF NOTICE.—The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Board within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the national mutual bank providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Board may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the national mutual bank involved warrant disapproval;

"(iii) the national mutual bank fails to furnish the information required under subparagraph (A); or

"(iv) the national mutual bank fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a national mutual bank may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that the capital retained at the holding company is in excess of the amount of capital required in order for the interim national bank to meet all relevant capital standards established by the Comptroller of the Currency for national banks.

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons having ownership rights in the national mutual bank under section 5133A of the Revised Statutes of the United States (including paragraph 575.5 of chapter V of title 12 of the Code of Federal

Regulations, as in effect on September 13, 1995, and applicable to national mutual banks pursuant to such section) or State law shall have the same ownership rights with respect to the mutual holding company.

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand, or other accounts of—

"(i) a national bank chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual bank acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of a national or State bank.

"(B) Acquiring a mutual bank through the merger of such bank into a national bank subsidiary of such holding company or an interim national bank subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a national mutual bank.

"(D) Investing in a corporation the capital stock of which is available for purchase by a national mutual bank under Federal law or under the law of any State where the home office of any subsidiary bank is located.

"(E) Engaging in the activities permitted under section 4(c).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) CHARTERING AND OTHER REQUIREMENTS.—

"(A) IN GENERAL.—A mutual holding company shall be chartered by the Board and shall be subject to such regulations as the Board may prescribe.

"(B) OTHER REQUIREMENTS.—Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this Act regarding regulation of holding companies.

"(8) CAPITAL IMPROVEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a national bank chartered as part of a transaction described in paragraph (1) to raise capital for such bank.

"(B) ISSUANCE OF NONVOTING SHARES.—No provision of this Act shall be construed as prohibiting a national bank chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such bank to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of law, upon—

"(i) the default of any national bank—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

"(10) STATE MUTUAL BANK HOLDING COMPANY.—

"(A) IN GENERAL.—Notwithstanding any provision of Federal law, a State bank operating in mutual form may reorganize so as to form a holding company under State law.

"(B) REGULATION OF STATE MUTUAL HOLDING COMPANY.—A corporation organized as a holding company in accordance with subparagraph (A) shall be regulated on the same terms and be subject to the same limitations as any other holding company which controls a bank.

"(11) REGULATIONS.—

"(A) TRANSITION RULES.—Mutual bank holding companies organized under this subsection shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on September 13, 1995, including part 575 of chapter V of title 12 of the Code of Federal Regulations (as in effect on such date), during the 3-year period beginning on the date of the enactment of the Thrift Charter Conversion Act of 1995.

"(B) REGULATIONS OF THE BOARD.—The Board shall prescribe appropriate regulations for mutual holding companies, effective at the end of the 3-year period referred to in subparagraph (A).

"(12) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

"(C) NATIONAL MUTUAL BANK.—The term 'national mutual bank' means a national bank organized in mutual form under section 5133A of the Revised Statutes of the United States.".

(3) LIMITATION ON FEDERAL REGULATION OF STATE BANKS.—Except as otherwise provided in Federal law, the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation may not adopt or enforce any regulation which contravenes the corporate governance rules prescribed by State law or regulation for State banks unless the Comptroller, Board, or Corporation finds that such Federal regulation is necessary to assure the safety and soundness of such State banks.

(4) CONVERSIONS OF MUTUAL SAVINGS ASSOCIATIONS TO MUTUAL NATIONAL BANKS BY OPERATION OF LAW.—Notwithstanding any other provision of Federal or State law, any savings association (as defined in section 3 of the Federal Deposit Insurance Act (as in effect on September 13, 1995)) which is organized in mutual form as of the date of the enactment of this Act may become a national mutual bank by operation of law if the association—

(A) files the articles of association and organization certificate with the Comptroller of the Currency before January 1, 1998, in accordance with chapter one of title LXII of the Revised Statutes of the United States; and

(B) provides such other document or information as the Comptroller of the Currency may prescribe in regulations consistent with this section and section 5133A of the Revised Statutes of the United States (as added by paragraph (1) of this subsection).

(5) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after the item relating to section 5133 the following new item:

"5133A. Mutual national banks.".

(b) MEMBERSHIP IN FEDERAL HOME LOAN BANKS.—Any insured depository institution which—

(1) as of the date of the enactment of this Act, is a Federal savings association which, pursuant to section 6(e) of the Federal Home Loan Bank Act, may not voluntarily withdraw from membership in a Federal home loan bank; and

(2) after such date converts from a Federal savings association to a national bank,

shall continue to be subject to the prohibition under such section on voluntary withdrawal from such membership as though such bank were still a Federal savings association until the bank ceases to be a national bank.

(c) BRANCHES.—

(1) IN GENERAL.—Notwithstanding any provision of the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, or any other Federal or State law, any depository institution which—

(A) as of the date of the enactment of this Act, is a savings association; and

(B) becomes a bank before January 1, 1998, or, pursuant to the amendments made by this subsection, is treated as a bank as of such date under the Federal Deposit Insurance Act,

and any depository institution or bank holding company which acquires such depository institution, may continue, after the depository institution becomes or commences to be treated as a bank, to operate any branch which the savings association operated as a branch on September 13, 1995.

(2) NO ADDITIONAL BRANCHES.—Paragraph (1) shall not be construed as authorizing the establishment, acquisition, or operation of any additional branch of a depository institution in any State by virtue of the operation by such institution of a branch in such State pursuant to such paragraph except to the extent such establishment, acquisition, or operation is permitted under the Federal Deposit Insurance Act, Bank Holding Company Act of 1956, and any other applicable Federal or State law without regard to such branch.

(d) TRANSITION PROVISION RELATING TO LIMITATIONS ON LOANS TO 1 BORROWER.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) is amended by adding at the end the following new subsection:

"(e) TRANSITION PROVISION FOR SAVINGS ASSOCIATIONS CONVERTING TO NATIONAL BANKS.—In the case of any depository institution which, as of September 13, 1995, is a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (as in effect on such date)) and becomes a national bank on or before January 1, 1998, any loan, or legally binding commitment to make a loan, made or entered into by such institution which is outstanding on the date the institution becomes a national bank may continue to be held without regard to any limitation contained in this section during the 3-year period beginning on such date.".

SEC. 2226. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) Section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)) is amended by striking "the Director of the Office of Thrift Supervision,".

(2) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by striking paragraph (9).

(3) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by striking subsection (k).

(4) Subsections (c)(2) and (i)(2) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) are each amended—

(A) in subparagraph (B), by inserting "and" after the semicolon;

(B) in subparagraph (C), by striking "; and" and inserting a period; and

(C) by striking subparagraph (D).

(5) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by striking subsection (m).

(6) The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking section 28.

(b) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—

(1) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by striking subsections (i) and (j).

(2) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking the sentence preceding the penultimate sentence.

(3) Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(A) in paragraph (2)(A)(i), by striking "or an insured institution" and all that follows through "of this subsection)";

(B) in paragraph (2)(A)(ii)—

(i) by striking "or a savings association" where such term appears in the portion of such paragraph which precedes subclause (I);

(ii) by inserting "and" at the end of subclause (VI);

(iii) by striking subclauses (VIII), (IX), and (X); and

(iv) by striking "(V), and (VIII)", where such term appears in the portion of such paragraph which appears after the end of subclause (VII), and inserting "and (V)"; and

(C) by striking paragraphs (10), (11), (12), and (13).

(4) Section 4(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(i)) is amended—

(A) by striking paragraphs (1) and (2); and

(B) in paragraph (3)(A), by striking "any Federal savings association" and all that follows through the period at the end of such paragraph and inserting "such association was authorized to engage under this section as of September 15, 1995.".

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 804(a) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803) is amended—

(A) in the portion of such subsection which precedes paragraph (1)—

(i) by striking ", and other nonfederally chartered housing creditors,"; and

(ii) by inserting "and in order to permit other nonfederally chartered housing creditors to make, purchase, and enforce alternative mortgage transactions," after "enforcing alternative mortgage transactions, "; and

(B) in paragraph (1), by inserting "(as such term is defined in section 3(a) of the Federal Deposit Insurance Act)" after "with respect to banks".

(2) Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended—

(A) in the portion of paragraph (8)(A) which precedes clause (i), by striking "A diversified savings" and all that follows through "with respect to" and inserting "A depository institution holding company which, as of September 13, 1995, and at all times thereafter, is a diversified savings and loan holding company (as defined in section 10(1)(F) of Home Owners' Loan Act, as such section is in effect on such date) with respect to"; and

(B) by striking paragraph (9).

(3) Section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)) is amended—

(A) by inserting "and" after the semicolon at the end of clause (v); and

(B) by striking clause (vi).

(4) Subparagraphs (A), (B), (C) of section 10(e)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(5)) are each amended by inserting before the period at the end "(as such section is in effect on September 13, 1995)".

SEC. 2227. REFERENCES TO SAVINGS ASSOCIATIONS AND STATE BANKS IN FEDERAL LAW.

Effective January 1, 1998, any reference in any Federal banking law to—

(1) the term "savings association" shall be deemed to be a reference to a bank as defined in section 3(a) of the Federal Deposit Insurance Act; and

(2) the term "State bank" shall be deemed to include any depository institution included in the definition of such term in section 3(a)(2) of such Act.

SEC. 2228. REPEAL OF HOME OWNERS' LOAN ACT.

Effective January 1, 1998, the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is hereby repealed.

SEC. 2229. EFFECTIVE DATE; DEFINITIONS.

(a) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this chapter shall take effect on January 1, 1998.

(b) DEFINITIONS.—For purposes of this chapter, the terms "appropriate Federal banking agency", "bank holding company", "depository institution", "Federal savings association", "insured depository institution", "savings association", and "State bank" have the same meanings as in section 3 of the Federal Deposit Insurance Act (as in effect on the date of the enactment of this Act).

CHAPTER 3—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 2241. OFFICE OF THRIFT SUPERVISION ABOLISHED.

Effective January 1, 1998, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are hereby abolished.

SEC. 2242. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) ALL OFFICE OF THRIFT SUPERVISION EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Office of Thrift Supervision shall be identified for transfer under subsection (b) to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the Board of Governors of the Federal Reserve System shall jointly determine the functions or activities of the Office of Thrift Supervision, and the number of employees of such Office necessary to perform or support such functions or activities, which are transferred from the Office to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be.

(2) ALLOCATION OF EMPLOYEES.—The Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the Board of Governors of the Federal Reserve System shall allocate the employees of the Office of Thrift Supervision consistent with the number determined pursuant to paragraph (1) in a manner which such Comptroller, Chairperson, and Chairman, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—In winding up the affairs of the Office of Thrift Supervision, the Director of the Office of Thrift Supervision shall consult and cooperate with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System, as the case may be, to facilitate the orderly transfer of the functions to such Comptroller, Corporation, or Board.

(2) CONTINUING AUTHORITY OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Except as provided in paragraph (1), no provision of this subtitle shall be construed as affecting the authority vested in the Director of the Office of Thrift Supervision before the date of enactment of this Act which is necessary to carry out the duties of the position until the date upon which the position of Director of the Office of Thrift Supervision is abolished.

(3) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, or any successor to any such agency, department, or instrumentality, which was providing support services to the Director of the Office of Thrift Supervision on the day before the date such position is abolished shall—

(A) continue to provide such services on a reimbursable basis, in accordance with the terms of the arrangement pursuant to which such services were provided until the arrangement is modified or terminated in accordance with such terms, except that effective January 1, 1998, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be, shall be substituted for the Director of the Office of Thrift Supervision as a party to the arrangement; and

(B) consult with the Comptroller, the Corporation, or the Board to coordinate and facilitate a prompt and reasonable transition.

(d) TRANSFER OF PROPERTY.—Effective January 1, 1998, all property of the Office of Thrift Supervision shall be transferred to the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as determined in accordance with subsections (a) and (b).

SEC. 2243. SAVINGS PROVISIONS.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this title shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, or any person, which existed on the day before the date upon which the position of Director of the Office of Thrift Supervision and the Office of Thrift Supervision are abolished.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Thrift Supervision shall abate by reason of enactment of this Act, except that, effective January 1, 1998, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of

the Federal Reserve System, as the case may be, shall be substituted as a party to any such action or proceeding.

(c) CONTINUATION OF ADMINISTRATIVE RULES.—All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures, supervisory and enforcement actions, and other advisory material (other than any regulation implementing or prescribed pursuant to section 3(f) of the Home Owners' Loan Act (as in effect on September 13, 1995)) which—

(1) have been issued, made, prescribed, or permitted to become effective by the Office of Thrift Supervision, and

(2) are in effect on December 31, 1996, (or become effective after such date pursuant to the terms of the order, resolution, determination, rule, other interpretation, guideline, procedure, supervisory or enforcement action, and other advisory material, as in effect on such date), shall—

(A) continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures, supervisory or enforcement actions, or other advisory material;

(B) be administered by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System; and

(C) be enforceable by or against the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System until modified, terminated, set aside, or superseded in accordance with applicable law by the Comptroller, Corporation, or Board, by any court of competent jurisdiction, or by operation of law.

(d) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGES ISSUED BEFORE FIRREA.—For purposes of section 402(e) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1437 note), any reference in such section to—

(A) the Director of the Office of Thrift Supervision shall be deemed to be a reference to the Secretary of the Treasury; and

(B) a Savings Association Insurance Fund member shall be deemed to be a reference to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS ISSUED AFTER FIRREA.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Director of the Office of Thrift Supervision or Savings Association Insurance Fund members shall be treated as a reference to the Secretary of the Treasury or insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), as appropriate.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

(A) made available by the Secretary of the Treasury; or

(B) determined by the Secretary of the Treasury, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Secretary of the Treasury, the Chairperson of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency shall take such action as may be necessary to assure that the indexes prepared by the Director of the Office of Thrift Supervision immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Secretary of the Treasury determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 2244. REFERENCES IN FEDERAL LAW TO DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Any reference in any Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision shall be deemed to be a reference to the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act).

SEC. 2245. RECONFIGURATION OF BOARD OF DIRECTORS OF FDIC AS A RESULT OF REMOVAL OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) IN GENERAL.—Section 2(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amended to read as follows:

"(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 3 members—

"(A) 1 of whom shall be the Comptroller of the Currency; and

"(B) 2 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(2)) is amended—

(A) by striking "February 28, 1993" and inserting "January 1, 1998"; and

(B) by striking "3" and inserting "2".

(2) Section 2(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(d)(2)) is amended—

(A) by striking "or the office of Director of the Office of Thrift Supervision";

(B) by striking "or such Director";

(C) by striking "or the Acting Director of the Office of Thrift Supervision, as the case may be"; and

(D) by striking "or Director".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1998.

(d) DESIGNATION OF ABOLISHED POSITION.—Unless there is a vacancy in the position of an appointed member of the Board of Directors as of January 1, 1998, the President, consistent with the requirements of section 2(a)(2) of the Federal Deposit Insurance Act, shall designate which of the 3 positions of appointed member of such Board of Directors shall be abolished pursuant to the amendment made by subsection (a).

CHAPTER 4—LOAN LOSS RESERVE TREATMENT

SEC. 2261. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) one of the major obstacles to the conversion of thrift institutions into banks is the tax treatment of bad debt reserve deductions of thrift institutions;

(2) as part of a comprehensive solution to the merger of the Federal deposit insurance funds and thrift and bank charters, section 593 of the Internal Revenue Code of 1986 should be repealed; and

(3) the repeal of section 593 of the Internal Revenue Code of 1986 should be accomplished in such a fashion as would neither threaten the economic viability of thrift institutions which convert to bank charters nor cause the Federal Treasury to lose revenue.

Subtitle C—Community Reinvestment Act Amendments

SEC. 2301. EXPRESSION OF CONGRESSIONAL INTENT.

Subsection (b) of section 802 of the Community Reinvestment Act of 1977 (12 U.S.C. 2901) is amended to read as follows:

"(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority, when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities

in which they are chartered consistent with the safe and sound operation of such institutions. When examining financial institutions, a supervisory agency shall not impose additional burden, recordkeeping, or reporting upon such institutions.".

SEC. 2302. COMMUNITY REINVESTMENT ACT EXEMPTION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 809. TREATMENT OF SMALL FINANCIAL INSTITUTIONS.

"(a) IN GENERAL.—In lieu of being evaluated under section 806A and receiving a written evaluation under section 807, an eligible regulated financial institution shall make a notice, signed by the president, available to the public that—

"(1) lists the type of credit and services that the institution provides to help meet the credit needs of the local community; and

"(2) states that the institution helps meet the credit needs of the local communities in which the institution operates, including low- and moderate-income neighborhoods.

"(b) ELIGIBLE REGULATED FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—A regulated financial institution shall be eligible for purposes of subsection (a) if the institution and any bank holding company which controls such institution have aggregate assets of not more than $100,000,000.

"(2) ANNUAL ADJUSTMENT.—The dollar amount in paragraph (1) shall be adjusted annually after December 31, 1994, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(c) EXEMPTION FROM OTHER REQUIREMENTS.—A regulated financial institution which has complied with the notice requirements of subsection (a) shall not be subject to section 804 and any regulations prescribed under section 806.".

SEC. 2303. SELF-CERTIFICATION OF CRA COMPLIANCE.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection (c):

"(c) SELF-CERTIFICATION OF CRA COMPLIANCE.—

"(1) CERTIFICATION.—In lieu of being evaluated under section 806A and receiving a written evaluation under section 807, a qualifying financial institution may elect to self-certify to the appropriate Federal financial supervisory agency that such institution is in compliance with the goals of this title.

"(2) QUALIFYING INSTITUTION.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualifying institution' means a financial institution which—

"(i) has not more than $250 million in assets;

"(ii) has not been found to have engaged in a pattern or practice of illegal discrimination under the Fair Housing Act or the Equal Credit Opportunity Act for the preceding 5-year calendar period; and

"(iii) received rating under section 807(b)(2) of 'satisfactory' or 'outstanding' in the most recent evaluation of such institution under this title.

"(B) ANNUAL ADJUSTMENT.—The dollar amount in subparagraph (A) shall be adjusted annually after December 31, 1994, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—A qualifying institution shall maintain in every branch a public notice stating that—

"(i) the institution has self-certified that the institution is satisfactorily helping to meet the credit needs of its community;

"(ii) the institution maintains—

"(I) at the main office of such institution, a public file which contains a copy of the self-certification to the appropriate Federal financial supervisory agency; and

"(II) a map delineating the community served by the institution;

"(iii) a list of the types of credit and services that the institution provides to the community served by the institution;

"(iv) such other information that the institution believes demonstrates the institution's record of helping to meet the credit needs of its community; and

"(v) every public comment or letter to the institution (and any response by the institution) received within the previous 2-year period

about the record of the institution of helping to meet the credit needs of its community.

"(B) PUBLIC FILE.—A qualifying institution shall maintain a public file containing the contents described in this paragraph at the institution's main office.

"(4) RATING.—

"(A) IN GENERAL.—A qualifying institution shall be deemed to have a rating of a 'satisfactory record of meeting community credit needs' for the purposes of this section and section 806A(c).

"(B) PUBLICATION.—Each Federal financial supervisory agency shall publish in the Federal Register once each month a list of institutions that have self-certified during the previous month.

"(C) PUBLICATION CONSTITUTES DISCLOSURE.—Publication of the name of the institution in the Federal Register as having self-certified shall constitute disclosure of the rating of the institution to the public for purposes of sections 806A and 807.

"(5) REGULATORY REVIEW.—

"(A) ASSESSMENT.—During each examination for safety and soundness, a qualifying institution's supervisory agency shall, as part of the agency's review of the institution's loans, assess whether the institution's basis for its self-certification is reasonable based on the public notice and the information contained in the public file pursuant to paragraph (3).

"(B) EXAMINATION IF SELF-CERTIFICATION IS NOT REASONABLE.—If the agency determines that the institution's basis for the institution's self-certification is not reasonable, the agency shall schedule an examination of the institution for the purpose of assessing the institution's record of helping to meet the credit needs of its community.

"(C) REVOCATION OF SELF-CERTIFICATION.—If an assessment pursuant to subparagraph (B) results in a less than 'satisfactory' rating, the agency shall revoke the institution's self-certification and substitute a written evaluation as provided under section 807.

"(D) PERIOD OF INELIGIBILITY FOR SELF-CERTIFICATION.—An institution whose self-certification has been revoked may not self-certify pursuant to this subsection during the 5 years succeeding the year in which the self-certification is revoked.

"(E) SUBSEQUENT ELIGIBILITY.—After the end of the period of ineligibility described in subparagraph (D), an institution which meets the requirements for self-certification may elect to self-certify.

"(6) PROHIBITION ON ADDITIONAL REQUIREMENTS.—No appropriate Federal financial supervisory agency may impose any additional requirements, whether by regulation or otherwise, relating to the self-certification procedure under this subsection.".

SEC. 2304. COMMUNITY INPUT AND CONCLUSIVE RATING.

(a) CONFORMING AMENDMENT.—Section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by inserting "conducted in accordance with section 806A," after "financial institution,".

(b) COMMUNITY INPUT AND CONCLUSIVE RATING.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by inserting after section 806 the following new section:

"SEC. 806A. COMMUNITY INPUT AND CONCLUSIVE RATING.

"(a) PUBLICATION OF EXAM SCHEDULE AND OPPORTUNITY FOR COMMENT.—

"(1) PUBLICATION OF NOTICE.—Each appropriate Federal financial supervisory agency shall—

"(A) publish in the Federal Register, 30 days before the beginning of a calendar quarter, a listing of institutions scheduled for evaluation for compliance with this title during such calendar quarter; and

"(B) provide opportunity for written comments from the community on the performance, under this title, of each institution scheduled for evaluation.

"(2) COMMENT PERIOD.—Written comments may not be submitted to an appropriate Federal financial supervisory agency pursuant to paragraph (1) after the end of the 30-day period beginning on the first day of the calendar quarter.

"(3) COPY OF COMMENTS.—The agency shall provide a copy of such comments to the institution.

"(b) EVALUATION.—The appropriate Federal financial supervisory agency shall—

"(1) evaluate the institution in accordance with the standards contained in section 804; and

"(2) prepare and publish a written evaluation of the institution as required under section 807.

"(c) RECONSIDERATION OF RATING.—

"(1) REQUEST FOR RECONSIDERATION.—A reconsideration of an institution's rating referred to in section 807(b)(1)(C), may be requested within 30 days of the rating's disclosure to the public.

"(2) PROCEDURES FOR REQUEST.—Any such request shall be made in writing and filed with the appropriate Federal financial supervisory agency, and may be filed by the institution or a member of the community.

"(3) BASIS FOR REQUEST.—Any request for reconsideration under this subsection shall be based on significant issues of a substantive nature which are relevant to the delineated community of the institution and, in the case of a request by a member of the community, shall be limited to issues previously raised in comments submitted pursuant to subsection (a).

"(4) COMPLETION OF REVIEW.—The appropriate Federal financial supervisory agency shall complete any requested reconsideration within 30 days of the filing of the request.

"(d) CONCLUSIVE RATING.—

"(1) IN GENERAL.—An institution's rating shall become conclusive on the later of—

"(A) 30 days after the rating is disclosed to the public; or

"(B) the completion of any requested reconsideration by the Federal financial supervisory agency.

"(2) RATING CONCLUSIVE OF MEETING COMMUNITY CREDIT NEEDS.—An institution's rating shall be the conclusive assessment of the institution's record of meeting the credit needs of its community for purposes of section 804 until the institution's next rating, developed pursuant to an examination, becomes conclusive.

"(3) SAFE HARBOR.—Institutions which have received a 'satisfactory' or 'outstanding' rating shall be deemed to have met the purposes of section 804.

"(4) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, no provision of this section shall be construed as granting a cause of action to any person.".

(c) OVERALL EVALUATION OF INSTITUTION.—Paragraph (2) of section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(a)) is amended to read as follows:

"(2) take such record into account in the overall evaluation of the condition of the institution by the appropriate Federal financial supervisory agency.".

SEC. 2305. SPECIAL PURPOSE FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by inserting after subsection (c) (as added by section 2303 of this subtitle) the following new subsection:

"(d) SPECIAL PURPOSE INSTITUTIONS.—

"(1) IN GENERAL.—In conducting assessments pursuant to this section at any special purpose institution, the appropriate Federal financial supervisory agency shall—

"(A) consider the nature of business such institution is involved in; and

"(B) assess and take into account the record of the institution commensurate with the amount of deposits (as defined in section 3(1) of the Federal Deposit Insurance Act) received by such institution.

"(2) STANDARDS.—Each appropriate Federal financial supervisory agency shall develop standards under which special purpose institutions may be deemed to have complied with the requirements of this title which are consistent with the specific nature of such businesses.".

(b) SPECIAL PURPOSE INSTITUTION DEFINED.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended by adding at the end the following new paragraph:

"(5) SPECIAL PURPOSE INSTITUTIONS.—The term 'special purpose institution' means a financial institution that does not generally accept deposits from the public in amounts of less than $100,000, such as wholesale, credit card, and trust institutions.".

SEC. 2306. INCREASED INCENTIVES FOR LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.

(a) IN GENERAL.—Section 804(b) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amended to read as follows:

"(b) POSITIVE CONSIDERATION OF CERTAIN LOANS AND INVESTMENTS.—In assessing and taking into account the records of a regulated financial institution under subsection (a), the appropriate Federal financial supervisory agency shall—

"(1) consider as a positive factor, consistent with the safe and sound operation of the institution, the institution's investment in or loan to—

"(A) any minority depository institution or women's depository institution (as such terms are defined in section 808(b)) or any low-income credit union;

"(B) any joint venture or other entity or project which promotes the public welfare in any distressed community (as defined by such agency) whether or not the distressed community is located in the local community in which the regulated financial institution is chartered to do business; and

"(C) targeted low- and moderate-income communities, including real property loans to such communities; and

"(2) consider equally with other factors capital investment, loan participation, and other ventures undertaken by the institution in cooperation with—

"(A) minority- and women-owned financial institutions and low-income credit unions to the extent that these activities help meet the credit needs of the local communities in which such institutions are chartered; and

"(B) community development corporations in extending credit and other financial services principally to low- and moderate-income persons and small businesses to the extent that such community development corporations help meet the credit needs of the local communities served by the majority-owned institution.".

(b) AMENDMENT TO DEFINITIONS.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended by inserting after paragraph (5) (as added by section 2305(b) of this subtitle) the following new paragraph:

"(6) STATE BANK SUPERVISOR.—The term 'State bank supervisor' has the same meaning as in section 3(r) of the Federal Deposit Insurance Act.".

(c) TECHNICAL CORRECTION.—The 1st of the 2 paragraphs designated as paragraph (2) of section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended to read as follows:

"(D) the Director of the Office of Thrift Supervision with respect to any savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and any savings and loan holding company (other than a company which is a bank holding company);".

SEC. 2307. PROHIBITION ON ADDITIONAL REPORTING UNDER CRA.

Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) is amended to read as follows:

"SEC. 806. REGULATIONS.

"(a) IN GENERAL.—

"(1) PUBLICATION REQUIREMENT.—Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency.

"(2) PROHIBITION ON ADDITIONAL RECORDKEEPING.—Regulations prescribed and policy statements, commentary, examiner guidance, or other supervisory material issued under this title shall not impose any additional recordkeeping on a financial institution.

"(3) PROHIBITION ON LOAN DATA COLLECTION.—No loan data may be required to be collected and reported by a financial institution and no such data may be made public by any Federal financial supervisory agency under this title.".

SEC. 2308. TECHNICAL AMENDMENT.

Section 807(b)(1)(B) of the Community Reinvestment Act (12 U.S.C. 2906) is amended by striking "The information" and inserting "In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the information".

SEC. 2309. DUPLICATIVE REPORTING.

Section 10(g) of the Federal Home Loan Bank Act (12 U.S.C. 1430(g)) is amended by adding at the end the following new paragraph (3):

"(3) SPECIAL RULE.—This subsection shall not apply to members receiving a grade of 'outstanding' or 'satisfactory' under section 807 of the Community Reinvestment Act of 1977.".

SEC. 2310. CRA CONGRESSIONAL OVERSIGHT.

(a) SENSE OF CONGRESS RELATING TO AGGRESSIVE OVERSIGHT.—It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate should exercise aggressive oversight of the adoption and implementation of any regulation by any appropriate Federal financial supervisory agency under the Community Reinvestment Act of 1977 after the date of the enactment of this Act.

(b) AGENCY REPORTS REQUIRED.—

(1) IN GENERAL.—Each appropriate Federal financial supervisory agency shall submit a report to the Congress by December 31, 1996, and by December 31, 1997, on the implementation of all regulations prescribed by such agency under the Community Reinvestment Act of 1977 after the date of the enactment of this Act.

(2) REQUIREMENTS RELATING TO PREPARATION OF REPORTS.—In preparing each report required under paragraph (1), each appropriate Federal financial supervisory agency shall—

(A) solicit and include comments from regulated financial institutions with respect to the regulations which are the subject of the report; and

(B) include quantifiable measures of the cost savings achieved under the regulations which are the subject of the report and the effectiveness of such regulations in achieving the purposes of the Community Reinvestment Act of 1977.

(3) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal financial supervisory agency" and "regulated financial institution" have the same meanings as in section 803 of the Community Reinvestment Act of 1977.

SEC. 2311. CONSULTATION AMONG EXAMINERS.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(j) CONSULTATION AMONG EXAMINERS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall take such action as may be necessary to ensure that examiners employed by the agency—

"(A) consult on examination activities with respect to any depository institution; and

"(B) achieve an agreement and resolve any inconsistencies on the recommendations to be given to such institution as a consequence of any examinations.

"(2) EXAMINER-IN-CHARGE.—Each agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the agency's examiners involved in examinations of such institution.".

SEC. 2312. LIMITATION ON REGULATIONS.

Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) (as amended by section 2307) is amended by adding at the end the following new subsections:

"(b) LIMITATION ON REGULATIONS.—No regulation may be prescribed under this title by any Federal agency which would—

"(1) require any regulated financial institution to—

"(A) make any loan or enter into any other agreement on the basis of any discriminatory criteria prohibited under any law of the United States; or

"(B) make any loan to, or enter into any other agreement with, any uncreditworthy person that would jeopardize the safety and soundness of such institution; or

"(2) prevent or hinder in any way a financial institution's full responsibility to provide credit to all segments of the community.

"(c) ENCOURAGE LOANS TO CREDITWORTHY BORROWERS.—Regulations prescribed under this title shall encourage regulated financial institutions to make loans and extend credit to all creditworthy persons, consistent with safety and soundness.".

TITLE III—COMMITTEE ON COMMERCE

Subtitle A—Communications

CHAPTER 1—SPECTRUM AUCTIONS

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.";

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93–253 (FCC 93–510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92–9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

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

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the

immediate allocation and assignment of all such frequencies in accordance with section 309(j).".

CHAPTER 2—FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION

SEC. 3011. SHORT TITLE.

This chapter may be cited as the "Federal Communications Commission Authorization Act of 1995".

SEC. 3012. EXTENSION OF AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the administration of this Act by the Commission $186,000,000 for fiscal year 1996, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1996. Of the sum appropriated in each fiscal year under this section, a portion, in an amount determined under sections 8(b) and 9(b), shall be derived from fees authorized by sections 8 and 9.".

(b) TRAVEL AND REIMBURSEMENT PROGRAM.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended to read as follows:

"(2) The Commission shall submit to the appropriate committees of Congress, and publish in the Federal Register, semiannual reports specifying the reimbursements which the Commission has accepted under section 1353 of title 31, United States Code.".

(c) COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.—Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended by striking "fiscal years 1992 and 1993" and inserting "fiscal year 1996".

SEC. 3013. APPLICATION FEES.

(a) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

"(A) $40,000,000; plus

"(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

"(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

"(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

"(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

"(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

"(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

"(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

"(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.".

(b) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section—

"(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

"(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

(c) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading "COMMON CARRIER SERVICES", the following new item:

"23. Personal communications services	
"a. Initial or new application	230.00
"b. Amendment to pending application	35.00
"c. Application for assignment or transfer of control	230.00
"d. Application for renewal of license	35.00
"e. Request for special temporary authority	200.00
"f. Notification of completion of construction	35.00
"g. Request to combine service areas	50.00".

(d) VANITY CALL SIGNS.—

(1) LIFETIME LICENSE FEES.—

(A) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading "PRIVATE RADIO SERVICES", the following new item:

"11. Amateur vanity call signs	150.00".

(B) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(2) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs	7".

SEC. 3014. REGULATORY FEES.

(a) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(b) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(1) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

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

"(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).".

(c) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

"Terrestrial television satellite operations	500".

(d) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(e) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(1) in section 9, by striking subsection (i); and

(2) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

"(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

"(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

SEC. 3015. INSPECTION OF SHIP RADIO STATIONS.

(a) AUTHORITY TO DESIGNATE ENTITIES TO INSPECT.—Section 4(f)(3) of the Communications Act of 1934 (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: "*: And provided further,* That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph".

(b) CONDUCT OF INSPECTIONS.—Section 362(b) of such Act (47 U.S.C. 362(b)) is amended to read as follows:

"(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be certified to on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

"(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.".

(c) INSPECTION BY OTHER ENTITIES.—Section 385 of such Act (47 U.S.C. 385) is amended by inserting "or an entity designated by the Commission" after "The Commission".

SEC. 3016. EXPEDITED ITFS PROCESSING.

Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: "Except for cases involving the authorization of service in the Instructional Television Fixed Service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the

Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.".

SEC. 3017. TARIFF REJECTION AUTHORITY.

Section 203(d) of the Communications Act of 1934 (47 U.S.C. 203(d)) is amended by inserting after the first sentence the following new sentences: "The Commission may, after affording interested parties an opportunity to comment, reject a proposed tariff filing in whole or in part, if the filing or any part thereof is patently unlawful. In evaluating whether a proposed tariff filing is patently unlawful, the Commission may consider additional information filed by the carrier or any interested party and shall presume the facts alleged by the carrier to be true.".

SEC. 3018. REFUND AUTHORITY.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 230. REFUND AUTHORITY.

"In addition to any other provision of this Act under which the Commission may order refunds, the Commission may require by order the refund of such portion of any charge by any carrier or carriers as results from a violation of section 220 (a), (b), or (d) or 221 (c) or (d) or of any of the rules promulgated pursuant to such sections or pursuant to section 215, 218, or 219. Such refunds shall be ordered only to the extent that the Commission or a court finds that such violation resulted in unlawful charges and shall be made to such persons or classes of persons as the Commission determines reasonably represent the persons from whom amounts were improperly received by reason of such violation. No refunds shall be required under this section unless—

"(1) the Commission issues an order advising the carrier of its potential refund liability and provides the carrier with an opportunity to file written comments as to why refunds should not be required; and

"(2) such order is issued not later than 5 years after the date the charge was paid.

In the case of a continuing violation, a violation shall be considered to occur on each date that the violation is repeated.".

SEC. 3019. LICENSING OF AVIATION AND MARITIME SERVICES BY RULE.

Section 307(e) of the Communications Act of 1934 (47 U.S.C. 307(e)) is amended to read as follows:

"(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (B) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

"(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'aircraft station' and 'ship station' shall have the meanings given them by the Commission by rule.".

SEC. 3020. AUCTION TECHNICAL AMENDMENTS.

(a) FUNDING AVAILABILITY.—Section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: "Such offsetting collections are authorized to remain available until expended.".

(b) ESCROW OF DEPOSITS.—Section 309(j)(8) of such Act is further amended by adding at the end the following new subparagraph:

"(C) ESCROW OF DEPOSIT.—The Commission is authorized, based on the competitive bidding methodology selected, to provide for the deposit of moneys for bids in an interest-bearing account until such time as the Commission accepts a deposit from the high bidder. All interest earned on bid moneys received from the winning bidder shall be deposited into the general fund of the Treasury. All interest earned on bid moneys deposited from unsuccessful bidders, less any applicable fees and penalties, shall be paid to those bidders.".

SEC. 3021. FORFEITURES FOR VIOLATIONS IMPERILING SAFETY OF LIFE.

(a) ADMINISTRATIVE SANCTIONS.—Section 312(a) of the Communications Act of 1934 (47 U.S.C. 312(a)) is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

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

"(8) for failure to comply with any requirement of this Act or the Commission's rules that imperils the safety of life.".

(b) FORFEITURES.—Section 503(b)(1) of such Act (47 U.S.C. 503(b)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the semicolon at the end of subparagraph (D) and inserting "; or"; and

(3) by adding after subparagraph (D) the following new subparagraph:

"(E) failed to comply with any requirement of this Act or the Commission's rules that imperils the safety of life;".

SEC. 3022. USE OF EXPERTS AND CONSULTANTS.

Section 4(f)(1) of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following: "The Commission may also procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily rate equivalent to the maximum rate payable for senior-level positions under section 5276 of title 5, United States Code.".

SEC. 3023. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS AGAINST COMMON CARRIERS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

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

(2) by inserting "and is not a common carrier" after "title III of this Act" in subparagraph (B);

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) such person is a common carrier and the required notice of apparent liability is issued more than 5 years after the date the violation charged occurred; or".

SEC. 3024. UTILIZATION OF FM BAND FOR ASSISTIVE DEVICES FOR HEARING IMPAIRED INDIVIDUALS.

Within 6 months after the date of enactment of this Act, the Federal Communications Commission shall report to the Congress on the existing and future use of the FM band to facilitate the use of auditory assistive devices for individuals with hearing impairments. In preparing such report, the Commission shall consider—

(1) the potential for utilizing FM band auditory assistive devices to comply with the American with Disabilities Act;

(2) the impact on such compliance of the vulnerability of such devices to harmful interference from radio licensees; and

(3) alternative frequency allocations that could facilitate such compliance.

SEC. 3025. TECHNICAL AMENDMENT.

Section 302(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)) is amended—

(1) in subparagraph (A), by striking "allocated to the domestic cellular radio telecommunications service" and inserting "utilized to provide commercial mobile service (as defined in section 332(d))"; and

(2) in subparagraph (C), by striking "cellular" and inserting "commercial mobile service".

Subtitle B—Nuclear Regulatory Commission Annual Charge

SEC. 3031. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2002".

Subtitle C—United States Enrichment Corporation

SEC. 3035. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the "USEC Privatization Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this subtitle 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 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 3036. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

SEC. 3037. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993.";

(4) by redesignating the unredesignated paragraph (14) as paragraph (19); and

(5) by adding the following new paragraphs after paragraph (19):

"(20) The term 'gaseous diffusion plants' means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

"(21) The term 'private corporation' means the corporation established under section 1503.

"(22) The term 'Russian HEU agreement' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

"(23) The term 'Suspension Agreement' means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.".

SEC. 3038. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPHS (1) AND (2).—Section 1305(e) (42 U.S.C. 2297b–4(e)) is amended by striking paragraphs (1) and (2) and inserting in thereof the following:

"(1) IN GENERAL.—

"(A) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

"(B) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plan to a pension plan sponsored by the new contractor or the private corporation, as the case may be.

"(C) Any employer (including the private corporation or any contractor of the private corporation) at a gaseous diffusion plant shall abide by the terms of any unexpired collective bargaining agreement covering employees

in bargaining units at the plant and in effect on the privatization date until the expiration of the agreement.

"(D) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat such plant as a Department of Energy defense nuclear facility and any person employed by an operating contractor on the privatization date at either plant as a Department of Energy employee for purposes of sections 3161 through 3163 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274j).

"(E) The Department of Energy and the private corporation shall continue to fund postretirement health benefits for persons employed by an operating contractor at either of the gaseous diffusion plants at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date, consistent with clauses (i) through (iii), except that the Department of Energy, the private corporations and the operating contractor shall have the right to implement cost-saving measures, including (but not limited to) preferred provider organizations, managed care programs, mandatory second opinions before surgery or other medical procedures, and mandatory use of generic drugs, that do not materially diminish the overall quality of the medical care provided—

"(i) persons eligible for this coverage shall be limited to persons who retired from active employment at one of the gaseous diffusion plants as of the privatization date, as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants and persons who, as of the privatization date, are employed by the Corporation's operating contractor and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants;

"(ii) for persons who retired from employment with an operating contractor prior to July 1, 1993, the Department of Energy shall fund the entire cost of postretirement health benefits; and

"(iii) for persons who retire from employment with an operating contractor after July 1, 1993, the Department of Energy and the private corporation shall fund the cost of postretirement health benefits in proportion to the retired persons' years and months of service at a gaseous diffusion plant under their respective management.".

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(1) by striking "AND DETAILEES" in the heading;

(2) by striking the first sentence;

(3) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(4) by striking the last sentence.

SEC. 3039. MARKETING AND CONTRACTING AUTHORITY.

(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(1) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(2) by striking the first sentence.

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(1) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(2) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(c) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(d) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

"(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(e) LIABILITIES.—

(1) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the tran-

sition date to the privatization date shall be direct liabilities of the United States.".

(2) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(3) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(f) TRANSFER OF URANIUM.—

(1) AMENDMENT.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. URANIUM TRANSFERS AND SALES.

"(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural or enriched uranium in any form) to any person except as provided in this section.

"(b) RUSSIAN HEU.—

(1) TRANFERS.—Prior to December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall transfer to the Secretary upon delivery of such material to the Secretary. Uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall be deemed to be of Russian origin.

"(2) CONTRACTS.—Within 7 years of the date of enactment of the USEC Privatization Act, the Secretary shall enter into contracts to sell the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

"(A) at any time for use in the United States for the purpose of overfeeding;

"(B) at any time for use outside the United States; and

"(C) for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3 million pounds U3O8 equivalent per year.

"(3) URANIUM HEXAFLUORIDE.—With respect to all low-enriched uranium that is delivered to the United States Executive Agent under the Russian HEU Agreement after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, deliver to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium simultaneously with the delivery of such low-enriched uranium. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity consistent with the limitations on delivery to end users set forth in this subsection. Nothing in this subsection shall restrict the sale of the conversion component of such uranium hexafluoride.

"(4) INDEPENDENT PARTY.—In the event that the Russian Executive Agent does not request delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent party through

a competitive selection process to auction an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium. Such independent party shall sell such uranium hexafluoride to any person or entity consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed to be of Russian origin.

"(5) CONSUMPTION.—Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States prior to January 1, 1998 and thereafter only in accordance with the following schedule:

"Year	Annual Maximum Deliveries to End Users (millions lbs. U_3O_8 equivalent)
1998–	2 million lbs. U_3O_8 equivalent
1999–	4 million lbs. U_3O_8 equivalent
2000–	6 million lbs. U_3O_8 equivalent
2001–	8 million lbs. U_3O_8 equivalent
2002–	10 million lbs. U_3O_8 equivalent
2003–	12 million lbs. U_3O_8 equivalent
2004–	14 million lbs. U_3O_8 equivalent
2005 and each year thereafter	16 million lbs. U_3O_8 equivalent

"(6) MATCHED SALES.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a sale with an equal portion of U.S.-origin natural uranium pursuant to the Suspension Agreement and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

"(7) OVERFEEDING.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

"(c) TRANSFERS TO THE CORPORATION.—(1) Before the privatization date, the Secretary may transfer to the Corporation without charge the low enriched uranium from up to 50 metric tons of highly enriched uranium and up to 7,000 metric tons of natural uranium, subject to the restrictions in subsection (b)(2).

"(2) The Corporation (or its successor) may not deliver for commercial end use—

"(A) any of the natural uranium transferred under this subsection before January 1, 1998;

"(B) more than 10 percent of the natural uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4 million pounds, whichever is less, in any calendar year after 1997; or

"(C) more than 800,000 separative work units of low-enriched uranium transferred under this subsection in any calendar year.

"(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsection (b), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy s stockpile.

"(2) Except as provided in subsections (b) and (d), no sale or transfer of natural or low-enriched uranium shall be made unless—

"(A) the President determines that the material is not necessary to national security needs,

"(B) the Secretary determines that the sale of the material will not have an adverse impact on the domestic uranium mining and enrichment industries, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

"(C) the price paid to the Secretary will not be less than the fair market value of the material.

"(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (c), the Secretary may transfer or sell low-enriched uranium—

"(1) to a federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

"(2) to any person for national security purposes, as determined by the Secretary; or

"(3) to any state or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.".

(2) CONFORMING AMENDMENT.—The table of contents for chapter 24 is amended by redesignating the item relating to section 1408 as the item relating to section 1409 and by inserting after the item for section 1407 the following:

"Sec. 1408. Uranium transfers and sales.".

SEC. 3040. PRIVATIZATION OF THE CORPORATION.

(a) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets and obligations, including all of the Corporation's rights, duties, and obligations accruing subsequent to the privatization date under contracts, agreements, and leases entered into by the Corporation before the privatization date, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B);

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403; and

"(E) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or chharacteristics, made or received by the Corporation.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(b) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) ACQUISITIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(c) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the

subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.

"(c) SECURITIES LAWS APPLICABLE.—Any offering or sale of securities by the corporation established pursuant to section 1503(a)(1) shall be subject to the Securities Act of 1933, the Securities Exchange Act of 1934 and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.".

(d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(e) ADDITIONAL PROVISIONS.—Chapter 25 (as amended by subsection (d)) is amended by adding at the end the following:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(f) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of Private Corporation.
"Sec. 1504. Ownership Limitations.
"Sec. 1505. Exemption from Liability.
"Sec. 1506. Resolution of Certain Issues.
"Sec. 1507. Application of Privatization Proceeds.".

(g) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(h) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d–1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

SEC. 3041. PERIODIC CERTIFICATION OF COMPLIANCE.

Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

SEC. 3042. LICENSING OF OTHER TECHNOLOGIES.

Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking "other than" and inserting "including".

SEC. 3043. CONFORMING AMENDMENTS.

(a) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(1) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(A) Section 1202.

(B) Sections 1301 through 1304.

(C) Sections 1306 through 1316.

(D) Sections 1404 and 1405.

(E) Section 1601.

(F) Sections 1603 through 1607.

(2) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(b) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 3036(a)).

(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(c) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—

(1) by repealing subsections (a), (b), (c), and (d), and

(2) in subsection (e)—

(A) by striking the subsection designation and heading,

(B) by redesignating paragraph (1) (as added by section 3038(a)) as subsection (a), striking "IN GENERAL.—" and inserting "IN GENERAL.—", redesignating subparagraphs (A) through (E) as paragraphs (1) through (5) (redesignating in such paragraph, clauses (i) through (iii) as subparagraphs (A) through (C)), striking "clauses (i) through (iii)" in paragraph (5) and inserting "subparagraphs (A) through (C)", and by moving the margins 2-ems to the left,

(C) by striking paragraph (3), and

(D) by redesignating paragraph (4) (as amended by section 3038(b)) as subsection (b), and by moving the margins 2-ems to the left.

Subtitle D—Waste Isolation Pilot Project

SEC. 3045. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this subtitle 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 Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579).

SEC. 3046. DEFINITIONS.

Paragraphs (18) and (19) of section 2 are repealed.

SEC. 3047. TEST PHASE AND RETRIEVAL PLANS.

Section 5 is repealed.

SEC. 3048. TEST PHASE ACTIVITIES.

Section 6 is amended—

(1) by repealing subsections (a) and (b),

(2) by repealing paragraph (1) of subsection (c),

(3) by repealing subparagraph (A) of paragraph (2) of subsection (c),

(4) by redesignating subsection (c) as subsection (a), by striking the subsection heading and the matter before paragraph (1) and inserting "STUDY.—The following study shall be conducted:", by striking "(2) REMOTE-HANDLED WASTE.—", by striking "(B) STUDY.—", and by redesignating clauses (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively, and moving them 4-ems to the left, and

(5) by redesignating subsection (d) as subsection (b).

SEC. 3049. DISPOSAL OPERATIONS.

Section 7(b) is repealed.

SEC. 3050. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) SECTION 8(d)(1).—Section 8(d)(1) is amended by striking subparagraphs (B), (C), and (D) and by adding after subparagraph (A) the following:

"(B) COMMENTS OF ADMINISTRATOR.—Within 2 months of receipt of the application under subparagraph (A), the Administrator shall provide the Secretary with any comments on the Secretary's application. Within one month of the receipt of such comments, the Secretary shall, to the extent practicable, incorporate the Administrator's comments in the Secretary's application. The comments of the Administrator provided to the Secretary should also be transmitted to the appropriate committees of jurisdiction in the House of Representatives and the Senate.".

(b) SECTION 8(d) (2), (3).—Section 8(d) is amended by striking paragraphs (2) and (3), by striking "(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—", and by redesignating subparagraphs (A) and (B) of paragraph (1), as amended by subsection (a), as paragraphs (1) and (2), respectively, and moving them 2-ems to the left.

(c) SECTION 8(f).—Subsection (f) of section 8 is amended—

(1) by amending the subsection heading to read "PERIODIC REVIEW", and

(2) by amending paragraph (2) to read as follows:

"(2) REVIEW BY THE ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission under paragraph (1), comment on whether or not the WIPP facility continues to be in compliance with the final disposition regulations.".

(d) SECTION 8(g).—Section 8(g) is amended to read as follows:

"(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary should determine whether or not engineered barriers or natural barriers, or both, will be required at WIPP consistent with regulations published as part 191 of 40 C.F.R.".

SEC. 3051. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) SECTION 9(a)(1).—Section 9(a)(1) is amended by adding after and below subparagraph (H) the following:

"With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from the land disposal restrictions published at part 268 of 40 C.F.R. because compliance with the environmental radiation protection standards published at part 191 of 40 C.F.R. renders compliance with the land disposal restrictions unnecessary to achieve desired environmental protection and a no migration variance is not required for disposal of transuranic mixed waste at WIPP.".

(b) SECTION 9(b).—Subsection (b) of section 9 is repealed.

(c) SECTIONS 9(c), (d).—Subsections (c) and (d) of section 9 are repealed.

SEC. 3052. RETRIEVABILITY.

Section 10 is amended to read as follows:

"SEC. 10. TRANSURANIC WASTE.

"It is the intent of Congress that a decision will be made by the Secretary with respect to the disposal of transuranic waste no later than March 31, 1997.".

SEC. 3053. DECOMMISSIONING OF WIPP.

Section 13 is amended—

(1) by repealing subsection (a), and

(2) in subsection (b), by striking "(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the" and inserting "The".

SEC. 3054. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

Section 15(a) is amended—

(1) by striking "to the Secretary for payments to the State $20,000,000 for each of the 15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated" and inserting "to the State $20,000,000 for each of the 15 fiscal years beginning with the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act", and

(2) by adding at the end the following: "An appropriation to the State shall be in addition to any appropriation for WIPP.".

SEC. 3055. NON-DEFENSE WASTE.

Section 7(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) NONDEFENSE WASTE.—Within the capacity prescribed by paragraph (4), WIPP may receive transuranic waste from the Secretary which did not result from a defense activity.".

Subtitle E—Naval Petroleum Reserves

SEC. 3071. SHORT TITLE.

This subtitle may be cited as the "Naval Petroleum Reserve Privatization Act of 1995".

SEC. 3072. SALE OF NAVAL PETROLEUM RESERVES.

(a) SALE OF RESERVES REQUIRED.—Chapter 641 of title 10, United States Code, is amended by inserting after section 7421 the following new section:

"§ 7421a. Sale of naval petroleum reserves

"(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to the lands owned or controlled by the United States inside the naval petroleum and oil shale reserves established by this chapter. In the case of Naval Petroleum Reserve Numbered 1, the lands to be sold shall include sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

"(2) Not later than December 31, 1996, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the naval petroleum reserves.

"(b) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than January 1, 1996, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in each naval petroleum reserve. In making their assessments for each naval petroleum reserve, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if it were not sold, adjusted for any anticipated increases in tax revenues that would result if it were sold. The independent experts shall complete their assessments not later than July 1, 1996. In setting the minimum acceptable price for each naval petroleum reserve, the Secretary shall consider the average of the five assessments regarding the reserve or, if more advantageous to the Government, the average of three assessments after excluding the high and low assessments.

"(2) Not later than March 1, 1996, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of the naval petroleum reserves under this section. The Secretary may enter into the contracts required under this paragraph and paragraph (1) on a noncompetitive basis.

"(3) Not later than August 1, 1996, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of each naval petroleum reserve, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. Each draft contract shall identify all equipment and facilities to be included in the sales. Each draft contract, including the terms and provisions of the sale of the interest of the United States in the naval petroleum reserves, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

"(4) Not later than September 1, 1996, the Secretary shall publish an invitation for bids for the purchase of the naval petroleum reserves.

"(5) Not later than November 1, 1996, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in the naval petroleum reserves, or a particular reserve, that meets or exceeds the minimum acceptable price determined under paragraph (1). The Secretary may accept an offer for only a portion of a reserve so long as the entire reserve is still sold under this section at a price that meets or exceeds the minimum acceptable price.

"(c) FUTURE LIABILITIES.—The United States shall hold harmless and fully indemnify the purchaser of the interest of the United States in a naval petroleum re-

serve from and against any claim or liability as a result of ownership in the reserve by the United States.

"(d) SPECIAL RULES PREPARATORY TO SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) Not later than June 1, 1996, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

"(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in that reserve as the Secretary considers appropriate. The Secretary may enter into the contract required under this paragraph on a noncompetitive basis.

"(3) If, on the effective date of this section, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in the manner provided in the unit plan contract not later than June 1, 1996. Such resolution shall be considered final for all purposes under this section.

"(4) In this section, the term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 (Elk Hills) entered into on June 19, 1944.

"(e) PRODUCTION ALLOCATION REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in that reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of that reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

"(2) The purchaser of Naval Petroleum Reserve Numbered 1 shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

"(f) MAINTAINING PRODUCTION PENDING SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce that reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum efficient rate in section 7420(6) of this title shall not apply to Naval Petroleum Reserve Numbered 1.

"(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date of this section, for the purchase of production from any part of the United States' share of the naval petroleum reserves, the sale of the interest of the United States in the reserves shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date of this section for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

"(2) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of that reserve.

"(3) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of that reserve.

"(h) SET ASIDE OF SALE PROCEEDS ON ACCOUNT OF CALIFORNIA CLAIMS REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) An amount equal to seven percent of the proceeds from the sale of Naval Petroleum Reserve Numbered 1 shall be retained in a special account in the Treasury for the purpose of paying any

amount that may be owed by the United States as a result of legal action in connection with claims against the United States by the State of California and the Teachers' Retirement Fund of the State of California with respect to lands within Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve.

"(2) In determining the amount of the proceeds arising from the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall deduct the costs incurred to conduct the sale of that reserve.

"(3) A payment may be made from the special account only to the extent that the aggregate amount of such payment is provided for in advance in an appropriations Act.

"(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of a naval petroleum reserve or to the lands in the naval petroleum reserves subject to sale under this section upon the completion of the sale.

"(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of the naval petroleum reserves.

"(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of the naval petroleum reserves under this section. However, the Secretary may not enter into a contract for the sale of a naval petroleum reserve until the end of the 15-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives that the Secretary has accepted an offer under subsection (b)(5) for the sale of that reserve.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following new item:

"7421a. Sale of naval petroleum reserves.".

TITLE IV—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

SEC. 4000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IV—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Subtitle A—Higher Education

Sec. 4001. Short title; effective date.
Sec. 4002. Termination of direct lending.
Sec. 4003. Elimination of grace period interest subsidies.
Sec. 4004. Plus program reductions.
Sec. 4005. Loan transfer fee.
Sec. 4006. Lender fees to guaranty agencies.
Sec. 4007. Additional loan program changes.
Sec. 4008. Use of reserve funds to purchase defaulted loans.
Sec. 4009. Extension of period a guaranty agency must hold a defaulted loan.
Sec. 4010. Privatization of College Construction Loan Insurance Association.
Sec. 4011. Eligible institution.
Sec. 4012. Extension of program duration.

Subtitle B—Davis-Bacon and Service Contract Repeals

Sec. 4101. Davis-Bacon Act.
Sec. 4102. Service Contract Act of 1965.

Subtitle C—Provisions Relating to the Employee Retirement Income Security Act of 1974

Sec. 4201. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.

Subtitle A—Higher Education

SEC. 4001. SHORT TITLE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Higher Education Program Efficiency Act of 1995".

(b) EFFECTIVE DATE.—Except as otherwise provided therein, the amendments made by this subtitle shall take effect on January 1, 1996.

SEC. 4002. TERMINATION OF DIRECT LENDING.

(a) TERMINATION OF AUTHORITY.—

(1) PROGRAM AUTHORITY.—Section 451(a) of the Higher Education Act of 1965 (20 U.S.C. 1087a(a)) is amended by inserting "and ending June 30, 1996" after "period beginning July 1, 1994".

(2) TERMINATION OF FUNDING.—Section 452 of such Act (20 U.S.C. 1087b) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF FUNDING.—The Secretary shall not provide funds under this section for loans for any academic year beginning on or after July 1, 1996. The Secretary shall not pay any fees pursuant to subsection (b) of this section on or after January 1, 1996.".

(3) TERMINATION OF AUTHORITY TO ENTER NEW AGREEMENTS.—Section 453(a) of such Act (20 U.S.C. 1087c(a)) is amended—

(A) in paragraph (1), by inserting "and ending before July 1, 1996" after "academic years beginning on or after July 1, 1994";

(B) in paragraph (2)—

(i) by inserting "and" after the semicolon at the end of subparagraph (A);

(ii) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(iii) by striking subparagraphs (C) and (D); and

(C) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(b) ADMINISTRATIVE COST AMENDMENTS.—Section 458 of such Act (20 U.S.C. 1087h) of such Act is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (b) and (c) as subsections (f) and (g), respectively; and

(3) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) DIRECT ADMINISTRATIVE COSTS.—Each fiscal year there shall be available to the Secretary of Education, from funds not otherwise appropriated, funds to be obligated for the subsidy costs of direct administrative costs under this part, subject to subsection (b) of this section.

"(2) INDIRECT ADMINISTRATIVE COSTS.—There shall also be available from funds available from funds not otherwise appropriated, funds to be obligated for indirect administrative costs under this part and part B, subject to subsection (c) of this section, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $345,000,000 in fiscal year 1995, $110,000,000 in fiscal year 1996 (of which $40,000,000 shall be available for administrative cost allowances for guaranty agencies for October through December of 1995), and $70,000,000 in each of the fiscal years 1997 through 2002.

"(3) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under paragraph (2) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

"(b) SUBSIDY COSTS.—For purposes of this section, 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis.

"(c) DIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, 'direct administrative expenses' shall consist of the cost of—

"(1) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

"(2) collection of delinquent loans; and

"(3) write-off and closeout of loans.

"(d) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, 'indirect administrative expenses' shall consist of the cost of—

"(1) personnel engaged in developing program regulations, policy, and administrative guidelines;

"(2) audits of institutions and contractors;

"(3) program reviews; and

"(4) other oversight of the program.

"(e) LIMITATION ON PART D EXPENDITURES.—For any fiscal year, expenditures for indirect administrative expenses and for loan servicing for loans made pursuant to this part shall not exceed 30 percent of funds available pursuant to paragraph (2) for such fiscal year.".

(c) ELIMINATION OF TRANSITION TO DIRECT LOANS.—Such Act is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—

(A) by striking "during the transition" and all that follows through "part D of this title" in subparagraph (A); and

(B) by striking "section 428(c)(10)(F)(v)" in subparagraph (B) and inserting "section 428(c)(9)(F)(v)";

(2) in section 428(c)(8) (20 U.S.C. 1078(c)(8)), by striking subparagraph (B) and inserting the following:

"(B) Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such guaranty agency has made adequate collection efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.";

(3) in section 428(c)(9)(E)—

(A) by inserting "or" after the semicolon at the end of clause (iv);

(B) by striking "; or" at the end of clause (v) and inserting a period; and

(C) by striking clause (vi);

(4) in clause (vii) of section 428(c)(9)(F)—

(A) by inserting "and" before "to avoid disruption"; and

(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;

(5) in section 428(c)(9)(K), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";

(6) in section 428(e)(1)(B)(ii), by striking "during the transition" and all that follows through "part D of this title";

(7) in section 428(e)(3), by striking "of transition";

(8) in section 428(j)(3)—

(A) by striking "DURING TRANSITION TO DIRECT LENDING"; and

(B) by striking "during the transition" and all that follows through "part D of this title," in subparagraph (A) and inserting a comma;

(9) in section 453(c)(2) (20 U.S.C. 1087c(c)(2)), by striking "TRANSITION" and inserting "INSTITUTIONAL";

(10) in section 453(c), by striking paragraph (3); and

(11) in section 456(b) (20 U.S.C. 1087f(b))—

(A) by inserting "and" after the semicolon at the end of paragraph (3);

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in such paragraph (4) (as redesignated), by striking "successful operation" and inserting "integrity and efficiency".

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) of such Act (20 U.S.C. 1078–3(a)(4)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) made under part D of this title;".

(2) CONFORMING AMENDMENTS.—Section 428C(b) of such Act (20 U.S.C. 1078–3(b)) is amended by striking paragraph (5).

SEC. 4003. ELIMINATION OF GRACE PERIOD INTEREST SUBSIDIES.

Section 428(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(3)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A), no portion of the interest which accrues after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) and prior to the beginning of the repayment period of the loan shall be paid by the Secretary under this subsection on any loan made on or after January 1, 1996. Interest on the unpaid principal amount of any such loan during the interval described in the preceding sentence shall, at the option of the borrower—

"(i) be paid monthly or quarterly, or

"(ii) be added by the lender to the principal amount of the loan at the commencement of the repayment period.".

SEC. 4004. PLUS PROGRAM REDUCTIONS.

(a) LOAN LIMITS.—Section 428B(b) of the Higher Education Act of 1965 (20 U.S.C. 1078-2(b)) is amended—

(1) by striking "(b) LIMITATION BASED ON NEED.—" and inserting the following:

"(b) ANNUAL LIMITS.—

"(1) LIMITATION BASED ON NEED.—";

(2) by inserting before the last sentence thereof the following:

"(3) LIMITATION COMPUTED ON BASIS OF ACTUAL PAYMENTS.—"; and

(3) by inserting before paragraph (3) (as designated by the amendment made by paragraph (2) of this subsection) the following new paragraph:

"(2) DOLLAR LIMITATION.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulations of the Secretary) is $15,000.".

(b) INTEREST REBATE.—Section 428B of such Act is further amended by adding at the end the following new subsection:

"(f) INTEREST REBATE.—

"(1) REBATE REQUIRED.—Each holder of a loan under this section made on or after the date of enactment of this subsection, shall pay, on June 30 and December 31 of each year, to the Secretary a rebate of subsidies in an amount equal to 0.8 percent of the outstanding principal balance of loans held on such date. Payment of such rebate shall be made not later than 60 days after each such date.

"(2) DEPOSIT OF REBATES.—The Secretary shall deposit all fees collected pursuant to paragraph (1) into the insurance fund established in section 431.".

(c) PLUS LOANS INTEREST RATES.—Section 427A(c)(4) of such Act (20 U.S.C. 1077a(c)(4)) is amended by adding at the end the following new subparagraph:

"(F) Notwithstanding subparagraphs (A), (D), and (E), for any loan made pursuant to section 428B for which the first disbursement is made on or after January 1, 1996—

"(i) subparagraph (B) shall be applied by substituting '4.0' for '3.25'; and

"(ii) the interest rate shall not exceed 11 percent.".

(d) CONFORMING AMENDMENT.—Section 427A(h) of such Act (20 U.S.C. 1077a(h)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 4005. LOAN TRANSFER FEE.

Section 428(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(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 adding at the end thereof the following new subparagraph:

"(G) provide that, if a lender or holder, on or after January 1, 1996, sells, transfers, or assigns a loan under this part, then the transferee shall pay to the Secretary a transfer fee in an amount equal to 0.20 percent of the principal of the loan, which transfer fee shall be deposited into the insurance fund established in section 431, except that the provisions of this subparagraph shall not apply to any such sale, transfer, or assignment by a lender or holder to such lender's or holder's affiliate or pursuant to a merger or other consolidation transaction.".

SEC. 4006. LENDER FEES TO GUARANTY AGENCIES.

Subsection (f) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078(f)) is amended to read as follows:

"(f) PAYMENTS OF CERTAIN COSTS.—

"(1) PAYMENTS FROM LENDERS.—With respect to any loan under this part for which the first disbursement is made on or after January 1, 1996, the originating lender shall remit to the guaranty agency which guarantees the loan, a fee equal to 0.70 percent of the principal amount of the loan.

"(2) USE OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be used for the purposes of—

"(A) the administrative costs of collections of loans;

"(B) the administrative costs of preclaim assistance and other predefault activities;

"(C) the administrative costs of monitoring the enrollment and repayment status of students; and

"(D) other such costs related to the student loan insurance program.

"(3) TIMING OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be made at the time insurance premiums on such loans are paid to the guaranty agency.

"(4) PROHIBITION ON PASS-THROUGH.—No part of any payments required by this section shall be assessed or collected, directly or indirectly, from any borrower under this part.".

SEC. 4007. ADDITIONAL LOAN PROGRAM CHANGES.

(a) RESERVE FUNDS.—

(1) AMENDMENTS TO SECTION 422.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10)(E) or (F), such unencumbered" and inserting "Such";

(B) in subsection (g)(1), by striking "or the program authorized by part D of this title" each place it appears;

(C) in subsection (g)(1)(D), by striking "(A) or (B)" and inserting "(A), (B), or (C)"; and

(D) in subsection (g), by striking paragraph (4) and inserting the following:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

(2) AMENDMENTS TO SECTION 428.—Section 428(c)(9)(A) of such Act (20 U.S.C. 1078(c)(9)(A)) is amended—

(A) by inserting "and" after the semicolon at the end of clause (i);

(B) by striking "; and" at the end of clause (ii) and inserting a period; and

(C) by striking clause (iii).

(b) APPLICATION FOR PART B LOANS USING FREE FEDERAL APPLICATION.—

(1) SINGLE FORM REQUIRED.—Section 483(a) of such Act (20 U.S.C. 1090(a)) is amended—

(A) in paragraph (1)—

(i) by inserting "B," after "assistance under parts A,";

(ii) by striking "and to determine the need of a student for the purpose of part B of this title"; and

(iii) by striking the last sentence and inserting the following: "Such form may be in an electronic or any other format (subject to section 485B) in order to facilitate use by borrowers and institutions."; and

(B) in paragraph (3), by striking "and States shall receive," and inserting ", any guaranty agency authorized by any such institution, and States shall receive, at their request and".

(2) USE OF ELECTRONIC FORMS.—Section 483(a) of such Act is further amended by adding the following new paragraph after paragraph (4):

"(5) ELECTRONIC FORMS.—(A) The Secretary, in cooperation with representatives of institutions of higher education, eligible lenders, and guaranty agencies, shall prescribe an electronic version of the form described in subsection (a)(1). Such electronic form shall not require signatures to be collected at the time such form is submitted if the data contained in the electronic form is certified in one or more separate writings. The Secretary shall prescribe the initial electronic form not later than 90 days after the date of enactment of this paragraph.

"(B) Nothing in this Act shall preclude the use of the electronic form prescribed under subparagraph (A) through software developed, produced, distributed (including by diskette, modem or network communication, or otherwise) or collected by eligible lenders, guaranty agencies, eligible institutions, or consortia thereof. Such organization or consortium shall submit such electronic form to the Secretary for review prior to its use. If such electronic form is inconsistent with the provisions of this part, the Secretary shall notify the submitting organization or consortium of his objection within 30 days of such submission, and shall specifically identify the necessary changes. In the absence of such an ob-

jection the organization or consortium may use the electronic form as submitted. No fee may be charged in connection with use of the electronic form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.".

(c) AMENDMENTS TO ELIGIBLE LENDER DEFINITION.—Section 435(d)(1) of such Act (20 U.S.C. 1085) is amended—

(1) by inserting before the semicolon at the end of subparagraph (A) the following: "; and in determining whether the making or holding of loans to students and parents under this part is the primary consumer credit function of the eligible lender, loans made or held as trustee or in a trust capacity for the benefit of a third party shall not be considered";

(2) by striking "and" at the end of subparagraph (I);

(3) in subparagraph (J), by striking the period and inserting "; and"; and

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

"(K) a wholly owned subsidiary of a publicly-held holding company which, as of the date of enactment of this subparagraph, through one or more subsidiaries (i) acts as a finance company, and (ii) participates in the program authorized by this part pursuant to subparagraph (C).".

(d) ADDITIONAL AMENDMENTS TO SECTION 428.—

(1) AMENDMENTS.—Section 428 of such Act is further amended—

(A) in subsection (b)(1)(G), by striking "98 percent" and inserting "95 percent";

(B) in subsection (b)(1)(X), by striking "section 428(c)(10)" and inserting "section 428(c)(9)";

(C) in subsection (c)(1)(A), by striking "98 percent" and inserting "96 percent";

(D) in subsection (c)(1)(B)(i), by striking "88 percent" and inserting "86 percent";

(E) in subsection (c)(1)(B)(ii), by striking "78 percent" and inserting "76 percent";

(F) in subsection (c)(9)(C)(ii), by striking "80 percent" and inserting "76 percent";

(G) in subsection (c)(9)(I) by inserting "on the record" after "for a hearing";

(H) in subsection (j)(2)(A), by striking "60" and inserting "15";

(I) in subsection (j)(2)(B), by striking "two rejections" and inserting "one rejection"; and

(J) in subsection (l)—

(i) by striking paragraph (2); and

(ii) by striking "(1) ASSISTANCE REQUIRED.—".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall apply to loans on which the first disbursement of principal is made on or after January 1, 1996.

(e) REINSURANCE PERCENTAGE UNDER SECTION 428I.—Section 428I of such Act (20 U.S.C. 1078–9) is amended in subsection (b)(1)—

(1) by striking "100 PERCENT" in the heading and inserting "95 PERCENT"; and

(2) by striking "100 percent" and inserting "95 percent".

(f) LOAN FEES FROM LENDERS.—Section 438(d)(2) of such Act (20 U.S.C. 1087–1(d)(2)) is amended to read as follows:

"(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1) shall be—

"(A) 0.50 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after October 1, 1993, and before January 1, 1996; or

"(B) 0.30 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after January 1, 1996.".

(g) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) of such Act (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year," before "for (I)";

(2) by inserting "such" before "lender at least once";

(3) by inserting "such" before "a lender that is audited"; and

(4) by striking "if the lender" and inserting "if such lender".

SEC. 4008. USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.

Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender after the date of enactment of this subsection. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

"(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds; or

"(B) such use is prohibited by State law; or

"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".

SEC. 4009. EXTENSION OF PERIOD A GUARANTY AGENCY MUST HOLD A DEFAULTED LOAN.

(a) EXEMPTION FOR EXTENDED HOLDING PERIOD.—The last sentence of section 428(c)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".

(b) NEW EXTENDED HOLDING PERIOD PROGRAM.—Part B of title IV of such Act (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

"(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a student borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

"(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

"(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status prior to 180 days after the date the guaranty agency discharges its insurance obligation on the loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payment satisfactory to the guaranty agency during the 180-day period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

"(d) REGULATION PROHIBITED.—The Secretary shall not regulate the collection activities of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).".

SEC. 4010. PRIVATIZATION OF COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION.

(a) REPEAL OF STATUTORY RESTRICTIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1132f et seq.) is repealed.

(b) STATUS OF THE CORPORATION.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall have the power to engage in any business or other activities for which corporations may be organized under the laws of any State of the United States or the District of Columbia. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—Except as provided in subsection (d)(2) of this section, no stock of the Corporation may be sold or issued to an agency, instrumentality, or establishment of the United States Government, to a Government corporation or a Government controlled corporation (as such terms are defined in section 103 of title 5, United States Code), or to a Government sponsored enterprise (as such term is defined in section 622 of title 2, United States Code). The Student Loan Marketing Association shall not own any stock of the Corporation, except that it may retain the stock it owns on the date of enactment. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 as long as that section is in effect. The Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation. Notwithstanding the prohibitions in this subsection, the United States may pursue any remedy against a holder of the Corporation's stock to which it would otherwise be entitled.

(c) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—During the 5-year period following the date of the enactment of this Act, the Corporation shall include in any document offering the Corporation's securities, in any contracts for insurance, guarantee, or reinsurance of obligations, and in any advertisement or promotional material, a statement that—

(A) the Corporation is not a Government-sponsored enterprise or instrumentality of the United States; and

(B) the Corporation's obligations are not guaranteed by the full faith and credit of the United States.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform the requirements of this Act.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association".

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend its articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) TRANSITION REQUIREMENTS.—

(A) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (a), the requirements of section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3), as in existence as of the day before enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (d) of this section.

(B) REPORTS AFTER STOCK SALE.—The Corporation shall, not later than March 30 of the first full calendar year immediately following the sale pursuant to subsection (d), and each of the 2 succeeding years, submit to the Secretary of Education a report describing the Corporation's efforts to assist in the financing of education facilities projects, including projects for ele-

mentary, secondary, and postsecondary educational institution infrastructure, and detailing, on a project-by-project basis, the Corporation's business dealings with educational institutions that are rated by a nationally recognized statistical rating organization at or below the organization's third highest ratings.

(d) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall make every effort to sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education not later than 6 months after the date of the enactment of this Act.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within the period specified in paragraph (1), such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on independent appraisal by one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995. Such firms shall be selected by the Secretary of the Treasury in consultation with the Secretary of Education and the Corporation.

(e) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this section.

(f) DEFINITION.—As used in this section, the term "Corporation" means the Corporation established pursuant to the provision of law repealed by subsection (a).

SEC. 4011. ELIGIBLE INSTITUTION.

(a) AMENDMENTS.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(1) by inserting before the period at the end of the first sentence the following: "on the basis of a review by the institution's independent auditor using generally accepted accounting principles"; and

(2) by inserting after the end of such first sentence the following new sentences: "For the purposes of clause (6), revenues from sources that are not derived from funds provided under this title include revenues from programs of education or training that do not meet the definition of an eligible program in subsection (e), but are provided on a contractual basis under Federal, State, or local training programs, or to business and industry. For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year began on or before April 30, 1994.".

(b) EFFECTIVE DATE.—Notwithstanding section 713 of this Act, the amendments made by subsection (a) shall apply to any determination made on or after July 1, 1994, by the Secretary of Education pursuant to section 481(b)(6) of the Higher Education Act of 1965.

SEC. 4012. EXTENSION OF PROGRAM DURATION.

Part B of title IV of the Higher Education Act of 1965 is amended—

(1) in section 424(a) (20 U.S.C. 1074(a)), by striking "1998" and inserting "2002";

(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5))—

(A) by striking "2002" and inserting "2006"; and

(B) by striking "1998" and inserting "2002"; and

(3) in section 428C(e) (20 U.S.C. 1078-3(e)), by striking the first sentence and inserting "The authority to make loans under this section expires at the close of September 30, 2002.".

Subtitle B—Davis-Bacon and Service Contract Repeals

SEC. 4101. DAVIS-BACON ACT.

(a) REPEAL.—The Act of March 3, 1931 (40 U.S.C. 276a et seq.) (commonly referred to as the Davis-Bacon Act) is repealed.

(b) REFERENCES.—Any reference in any law to a wage requirement of the Act of March 3, 1931, shall, 45 days after the date of the enactment of this Act, be null and void.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 45 days after the date of the enactment of this Act but shall not affect any contract in existence on the expiration of such days or made pursuant to an invitation for bids outstanding on the expiration of such days.

SEC. 4102. SERVICE CONTRACT ACT OF 1965.

(a) REPEAL.—The Service Contract Act of 1965 (41 U.S.C. 351 et seq.) is repealed.

(b) APPLICATION.—The amendment made by subsection (a) shall not apply to a contract which was entered into before the 45th day after the date of the enactment of this Act and to which the Service Contract Act of 1965 applied.

Subtitle C—Provisions Relating to the Employee Retirement Income Security Act of 1974

SEC. 4201. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

TITLE V—COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

[Text to be inserted]

TITLE VI—COMMITTEE ON INTERNATIONAL RELATIONS

SEC. 6001. RECOVERY OF COSTS OF HEALTH CARE SERVICES FOR PERSONNEL OF THE FOREIGN SERVICE OF THE UNITED STATES AND OTHER ELIGIBLE INDIVIDUALS.

(a) AUTHORITIES.—Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended—

(1) in subsection (a) by—

(A) striking "and" before "members of the families of such members and employees"; and

(B) by inserting immediately before the period ", and for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h)";

(2) in subsection (d) by inserting ", subject to the provisions of subsections (g) and (h)" after "treatment"; and

(3) by adding the following new subsections:

"(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third-party payer the reasonable costs incurred by the Department of State on behalf of such person for health care services to the same extent that the covered beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer for such costs.

"(2) If the insurance policy, plan, contract, or similar agreement of that third-party payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the Secretary of State may collect from the third-party payer only the reasonable costs of the care provided less the deductible or copayment amount.

"(3) A covered beneficiary shall not be required to pay any deductible or copayment for health care services under this subsection.

"(4) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for care in the following circumstances shall operate to prevent collection by the Secretary of State under paragraph (1)—

"(A) care provided directly or indirectly by a governmental entity;

"(B) care provided to an individual who has not paid a required deductible or copayment; or

"(C) care provided by a provider with which the third-party payer has no participation agreement.

"(5) No law of any State, or of any political subdivision of a State, and no provision of any contract or agreement shall operate to prevent or hinder recovery or collection by the United States under this section.

"(6) As to the authority provided in paragraph (1) of this subsection—

"(A) the United States shall be subrogated to any right or claim that the covered beneficiary may have against a third-party payer;

"(B) the United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this subsection; and

"(C) the Secretary may compromise, settle, or waive a claim of the United States under this subsection.

"(7) The Secretary shall prescribe regulations for the administration of this subsection and subsection (h). Such regulations shall provide for computation of the reasonable cost of health care services.

"(8) Regulations prescribed under this subsection shall provide that medical records of a covered beneficiary receiving health care under this subsection shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought for the sole purpose of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the covered beneficiary; and

"(B) that the provisions of such care or services to the covered beneficiary meets criteria generally applicable under the health plan contract involved, except that this paragraph shall be subject to the provisions of paragraphs (2) and (4).

"(9) Amounts collected under this subsection or under subsection (h) from a third party payer or from any other payer shall be deposited in the Treasury as a miscellaneous offsetting receipt.

"(10) For purposes of this section—

"(A) the term 'covered beneficiary' means an individual eligible to receive health care under this section whose health care costs are to be paid by a third-party payer under a contractual agreement with such payer;

"(B) the term 'services', as used in 'health care services' includes products; and

"(C) the term 'third-party payer' means an entity that provides a fee-for-service insurance policy, contract, or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

"(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third-party payers covered by subsection (g).".

(b) EFFECTIVE DATE.—The authorities of this section shall be effective beginning on the date of the enactment of this Act.

SEC. 6002. ENACTMENT INTO LAW OF DIVISION A OF H.R. 1561.

Division A of H.R. 1561, as passed the House of Representatives on June 8, 1995 (relating to consolidation of foreign affairs agencies), is hereby enacted into law.

TITLE VII—COMMITTEE ON THE JUDICIARY

SEC. 7001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.
"(11) $119,000,000 in fiscal year 2001.
"(12) $119,000,000 in fiscal year 2002.".

TITLE VIII—COMMITTEE ON NATIONAL SECURITY

Subtitle A—Military Retired Pay

SEC. 8001. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out "THROUGH 1998" the first place it appears and all that follows through "In the case of" the second place it appears and inserting in lieu thereof "THROUGH 1996.—In the case of";

(2) by striking "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1993, 1994, or 1995"; and

(3) by striking out "September" and inserting in lieu thereof "March".

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed.

Subtitle B—Naval Petroleum Reserves

SEC. 8011. SALE OF NAVAL PETROLEUM RESERVES.

(a) SALE OF RESERVES REQUIRED.—Chapter 641 of title 10, United States Code, is amended by inserting after section 7421 the following new section:

"§ 7421a. Sale of naval petroleum reserves

"(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to the lands owned or controlled by the United States inside the naval petroleum and oil shale reserves established by this chapter. In the case of Naval Petroleum Reserve Numbered 1, the lands to be sold shall include sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

"(2) Not later than September 30, 1996, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the naval petroleum reserves.

"(b) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than January 1, 1996, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in each naval petroleum reserve. In making their assessments for each naval petroleum reserve, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if it were not sold, adjusted for any anticipated increases in tax revenues that would result if it were sold. The independent experts shall complete their assessments not later than June 1, 1996. In setting the minimum acceptable price for each naval petroleum reserve, the Secretary shall consider the average of the five assessments regarding the reserve or, if more advantageous to the Government, the average of three assessments after excluding the high and low assessments.

"(2) Not later than March 1, 1996, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of the naval petroleum reserves under this section. The Secretary may enter into the contracts required under this paragraph and paragraph (1) on a noncompetitive basis.

"(3) Not later than June 1, 1996, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of each naval petroleum reserve, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. Each draft

contract shall identify all equipment and facilities to be included in the sales. Each draft contract, including the terms and provisions of the sale of the interest of the United States in the naval petroleum reserves, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

"(4) Not later than July 1, 1996, the Secretary shall publish an invitation for bids for the purchase of the naval petroleum reserves.

"(5) Not later than September 1, 1996, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in the naval petroleum reserves, or a particular reserve, that meets or exceeds the minimum acceptable price determined under paragraph (1). The Secretary may accept an offer for only a portion of a reserve so long as the entire reserve is still sold under this section at a price that meets or exceeds the minimum acceptable price.

"(c) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in a naval petroleum reserve, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

"(d) SPECIAL RULES PREPARATORY TO SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) Not later than June 1, 1996, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

"(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in that reserve as the Secretary considers appropriate. The Secretary may enter into the contract required under this paragraph on a noncompetitive basis.

"(3) If, on the effective date of this section, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in the manner provided in the unit plan contract not later than June 1, 1996. Such resolution shall be considered final for all purposes under this section.

"(4) In this section, the term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 (Elk Hills) entered into on June 19, 1944.

"(e) PRODUCTION ALLOCATION REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in that reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of that reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

"(2) The purchaser of Naval Petroleum Reserve Numbered 1 shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

"(f) MAINTAINING PRODUCTION PENDING SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce that reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum efficient rate in section 7420(6) of this title shall not apply to Naval Petroleum Reserve Numbered 1.

"(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date of this section, for the purchase of production from any part of the United States' share of the naval petroleum reserves, the sale of the interest of the United States in the reserves shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date

of this section for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

"(2) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of that reserve.

"(3) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of that reserve.

"(h) OFFER OF SETTLEMENT OF STATE OF CALIFORNIA CLAIMS REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) In connection with the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall offer to settle all claims against the United States by the State of California and the Teachers' Retirement Fund of the State of California with respect to lands within that reserve, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. Subject to paragraph (2), the Secretary shall offer in settlement of such claims—

"(A) a payment from funds provided for this purpose in advance in appropriation Acts;

"(B) a grant of land pursuant to sections 2275 and 2276 of the Revised Statutes of the United States (43 U.S.C. 851 and 852) so long as such land is not generating revenue for the United States;

"(C) any other option that would not be inconsistent with the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.); or

"(D) any combination of subparagraphs (A), (B), and (C).

"(2) The value of any payment, grant, or option (or combination thereof) offered as settlement under paragraph (1) may not exceed an amount equal to seven percent of the proceeds from the sale of Naval Petroleum Reserve Numbered 1, after deducting the costs incurred to conduct the sale of that reserve.

"(3) Acceptance of the settlement offered under paragraph (1) shall be subject to the condition that all claims against the United States by the State of California or the Teachers' Retirement Fund of the State of California are released with respect to lands within the Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. The Secretary may specify the manner in which the release of such claims shall be evidenced.

"(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of a naval petroleum reserve or to the lands in the naval petroleum reserves subject to sale under this section upon the completion of the sale.

"(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of the naval petroleum reserves.

"(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of the naval petroleum reserves under this section. However, the Secretary may not enter into a contract for the sale of a naval petroleum reserve until the end of the 15-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives that the Secretary has accepted an offer under subsection (b)(5) for the sale of that reserve.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following new item:

"7421a. Sale of naval petroleum reserves.".

Subtitle C—National Defense Stockpile

SEC. 8021. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of

the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

TITLE IX—COMMITTEE ON RESOURCES

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TITLE IX—COMMITTEE ON RESOURCES

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Subtitle A—Alaska and Helium Privatization

PART 1—ALASKA

SEC. 9001. EXPORTS OF ALASKAN NORTH SLOPE OIL.

(a) AMENDMENT OF MINERAL LEASING ACT.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is amended to read as follows:

"EXPORTS OF ALASKAN NORTH SLOPE OIL

"(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within 5 months after the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

"(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

"(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

"(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including in noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

"(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exports of this oil or under Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76).

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

"(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.".

(b) GAO REPORT.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii. The Comptroller General shall commence this review 2 years after the date of enactment of this Act and, within 6 months after commencing the review, shall provide a report to the Committee on Resources and the Committee on Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) CONTENTS OF REPORT.—The report shall contain a statement of the principal findings of the review and recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that the Comptroller General attributes to Alaska North Slope oil exports.

SEC. 9002. ARCTIC COASTAL PLAIN LEASING AND REVENUE.

(a) PURPOSE.—It is the purpose of this section to reduce the Federal deficit by an estimated $1,300,000,000 over the next 5 years. This revenue will be derived from competitive bonus bids for oil and gas leases in the Coastal Plain area of Alaska's North Slope.

(b) DEFINITIONS.—For the purposes of this section:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Coastal Plain" means that portion of the Arctic National Wildlife Refuge identified in section 1002(b)(1) of the Alaska National Interest Lands Conservation Act of 1980 (Public Law 96–487; 16 U.S.C. 3142(b)(1)) consisting of approximately 1,549,000 acres.

(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was estab-

lished, and that no further findings or decisions are required to implement this determination.

(d) AUTHORIZATION.—(1) Congress hereby authorizes and directs the Secretary to establish and promptly implement a program to assure the expeditious competitive leasing exploration, development, production, and transportation of the oil and gas resources of the Coastal Plain. Regulations to implement this program and to govern oil and gas leasing, exploration, development and production shall be promulgated by the Secretary within 6 months of the date of enactment of this section.

(2) The Coastal Plain leasing program required by paragraph (1) shall include the following:

(A) The first lease sale of not less than 200,000 acres shall be conducted within 12 months of the date of enactment of this section.

(B) The lease sales shall be based upon an industry nomination process.

(C) The Secretary is directed to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on unleased Federal lands within the Coastal Plain. These regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary accepts the bids, with interest earned paid to the General Treasury for bids that are accepted, and to the unsuccessful bidders for bids that are rejected.

(D) Royalty payments shall not be less than 12½ percent, and rental payments shall be prescribed by the Secretary.

(E) The Attorney General of the United States and the Federal Trade Commission may conduct such review of lease terms and lease sale activities as are necessary to ensure compliance with the antitrust laws.

(F) The size of lease tracts may be up to 11,520 acres but not less than 2,560 acres, as determined by the Secretary, except that the Secretary may lease smaller tracts if he determines smaller tracts are necessary to promote a more competitive leasing program or are necessary in certain locations to mitigate reasonably foreseeable impacts on the environment.

(G) Each lease shall be issued for an initial period of up to 10 years and shall be extended as long as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or as drilling or reworking operations as approved by the Secretary are conducted thereon.

(H) The Secretary is authorized and directed to promulgate regulations and to include terms in leases to ensure that—

(i) activities are conducted pursuant to an approved exploration or development plan;

(ii) lessees secure an appropriate performance bond to cover activities;

(iii) provision is made for the suspension, cancellation, assignment, relinquishment and unitization of leases; and

(iv) the Secretary has access to lease information and that confidential, privileged or proprietary information furnished by lessees is adequately protected.

(e) JUDICIAL REVIEW.—Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this section may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within 90 days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such 90th day, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this section may be filed in any appropriate district court of the United States, and such complaint must be filed within 90 days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such 90th day, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(f) ADMINISTRATION.—(1) Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2452; 16 U.S.C. 3143) is repealed.

(2) This section shall be considered the primary land management authorization for all activities associated with exploration, development, and production from the Coastal Plain. No land management review, determination, or other action shall be required except as specifically authorized by this section.

(g) PROTECTION OF FISH AND WILDLIFE RESOURCES AND OTHER ENVIRONMENTAL VALUES.—(1) Before conducting a competitive oil and gas lease sale under this section, the Secretary shall promulgate, within 6 months, as provided in subsection (d)(1), such rules and regulations as are necessary to ensure that oil and gas exploration, development, production, and transportation activities undertaken in the

Coastal Plain achieve the reasonable protection of the fish and wildlife resources, environment and subsistence uses of the Coastal Plain.

(2) The Secretary shall administer the provisions of this section through regulations and lease terms that the Secretary determines to be necessary to mitigate reasonably foreseeable and significantly adverse effects on the fish and wildlife, surface resources and subsistence resources of the Coastal Plain.

(3)(A) The Secretary, after consultation with the State of Alaska, the city of Kaktovik, Alaska, and the North Slope Borough, is authorized to close to leasing and designate up to 30,000 acres of the Coastal Plain as Special Areas if the Secretary determines that these lands are of such unique character and interest so as to require special management and regulatory protection. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives 90 days in advance of making such designations. The Secretary may permit leasing of all or portions of any lands within the Coastal Plain designated as Special Areas by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

(B) Notwithstanding any other provision of law or any international agreement to which the United States is a party, the Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production as provided for in this part is set forth in subparagraph (A).

(4) The Secretary shall, in consultation with the State of Alaska, the city of Kaktovik, Alaska, and the North Slope Borough, develop guidelines to encourage the siting of facilities having common use characteristics (service bases, ports and docks, airports, major pipelines and roads) in a manner which leads to facility consolidation, avoids unnecessary duplication, utilizes existing facilities, minimizes impacts on fish, wildlife, habitat and the subsistence activities of residents of Native communities, and avoids disruption of the lives of the residents of the Village of Kaktovik and other communities.

(5) Notwithstanding title XI of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2457; 16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, under sections 28(a) through (t) and (v) through (y) of the Mineral Leasing Act (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the purposes of this section, for pipeline construction, and the transportation of oil and gas and related purposes.

(6) The Secretary is authorized to close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife.

(h) APPLICATION OF ENVIRONMENTAL LAWS.—The "Final Legislative Environmental Impact Statement" (April 1987) prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2449; 16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (89 Stat. 424; 42 U.S.C. 4332(2)(C)) is hereby determined to be adequate and legally sufficient for all actions authorized pursuant to this section, including all phases of oil and gas leasing, exploration, development, production, transportation and related activities, including the granting of rights-of-way, use permits and other authorizations.

(i) NEW REVENUES.—(1) Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest or other income derived from the leasing of oil and gas resources within the Coastal Plain shall be deposited into the Treasury of the United States: *Provided*, That 50 percent of all such Coastal Plain revenues shall be paid by the Secretary of the Treasury semiannually, on March 30th and on September 30th of each year, to the State of Alaska.

(2) On March 1st of each year following the date of enactment of this section, the Secretary shall prepare and submit to the Congress an annual report on the revenues derived and on the leasing program authorized by this section.

(j) CONVEYANCE.—Notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), the Secretary is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

(k) PENALTY.—Any person, including any Federal official, who fails to comply with any provision or mandate of this section, a lease term, or a regulation promulgated under this section, after notice of such failure and expiration of a reasonable period for corrective action, shall be liable, after hearing, for a civil penalty of not more than $10,000 for each day of the continuance of such failure.

(l) COMMUNITY ASSISTANCE.—There is hereby established a Community Assistance Fund in the Treasury which shall be maintained at a level of $5,000,000 annually from the Federal share of Coastal Plain revenues and shall be available to the Secretary for the purposes of this section. Organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are impacted by activities authorized under this section shall be eligible, on application to the Secretary, for local assistance from the Community Assistance Fund for needed social services and to provide public services and facilities required in connection with supporting exploration and development of the Coastal Plain.

(m) EMPLOYMENT AND CONTRACTING.—As a condition of any leases, permits, or other Federal authorizations granted or issued pursuant to this section, a recipient of those leases, permits, or authorizations shall be required to use its best efforts to assure that the lessee and its agents and contractors provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State.

(n) USE OF ANWR REVENUES.—

(1) ESTABLISHMENT OF ENDOWMENT.—There is hereby established in the general fund of the Treasury a separate account which shall be known as the National Endowment for Fish and Wildlife.

(2) CONTENTS.—(A) Except as provided in subparagraph (B), the Endowment shall consist of revenues received from the following sources:

(i) Gifts, devises, and bequests to the Endowment.

(ii) Amounts appropriated by the Congress to the Endowment.

(iii) Any revenues deposited into the Treasury of the United States under subsection (i), from the Federal share of revenues derived from oil and gas leasing within the Coastal Plain, that exceed $1,300,000,000.

(B) After the Endowment has reached a level of $250,000,000 in principal, further payments to the Endowment shall consist only of the following:

(i) Gifts, devises, and bequests to the Endowment.

(ii) Amounts appropriated by the Congress to the Endowment.

(iii) 5 percent of the Federal royalties derived from commercial production of oil and gas on Federal leases on the Coastal Plain.

(3) ESTABLISHMENT OF FISH AND WILDLIFE CONSERVATION COMMISSION.—(A) To carry out the purposes of this subsection, there is hereby established a commission to be known as the Fish and Wildlife Conservation Commission.

(B) The Commission shall consist of—

(i) the Secretary of the Interior, who shall be the chairman,

(ii) 3 Members of the Senate selected by the President of the Senate, and

(iii) 3 Members of the House of Representatives selected by the Speaker.

(C) At least 1 member of the Commission selected from each House of Congress shall be a member of the minority party in that House.

(D) Any Member of the House of Representatives who is a member of the Commission, if reelected to the succeeding Congress, may serve on the Commission notwithstanding the expiration of a Congress.

(E) Any vacancy on the Commission shall be filled in the same manner as the original appointment.

(4) EXPENDITURES BY COMMISSION.—(A) The Fish and Wildlife Commission may make expenditures from the Endowment for the following fish and wildlife conservation purposes:

(i) Acquisition of important habitat lands for endangered species or threatened species from owners of private property. Such lands may be acquired solely on a willing seller basis and shall be managed by the Secretary of the Interior for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534).

(ii) Provision of funding for purposes authorized under the Endangered Species Act of 1973.

(iii) Provision of funds to the North American Wetlands Conservation Fund pursuant to the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(B) The amount expended under subparagraph (A)(iii) each fiscal year shall equal or exceed 25 percent of the total expenditures from the Endowment in that fiscal year.

(C) The Secretary of the Interior may not recommend any lands or interest in lands for purchase or other forms of acquisition using funds made available under the terms of this section unless the Secretary of the Interior—

(i) has determined that such lands are necessary for the conservation of endangered species or other fish and wildlife; and

(ii) has consulted with the county or other unit of local government in which such lands are located and with the Governor of the State concerned.

(D) Land or an interest in land may not be acquired with moneys from the Endowment unless—

(i) the acquisition thereof has been approved by the Governor of the State in which the land is located; and

(ii) the owner of the land or interest has offered the land or interest for acquisition under this subsection and consented to the acquisition.

(5) ANNUAL REPORT.—The Commission shall, through its chairman, annually report in detail to the Congress, by not later than the first Monday in December, regarding the operations of the Commission during the preceding fiscal year.

(6) STATE LAW.—The jurisdiction of any State, both civil and criminal, over persons upon areas acquired under this subsection shall not be changed or otherwise affected by reason of the acquisition and administration of the areas by the United States as endangered species habitat. Nothing in this subsection is intended to interfere with the operation of the game laws of the States.

(7) ADMINISTRATION OF AREAS ACQUIRED.—Areas of lands, waters, or interest therein acquired or reserved pursuant to this subsection shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by the Secretary to conserve and protect endangered species in accordance with the Endangered Species Act of 1973, or to restore or develop adequate wildlife habitat.

(8) DEFINITIONS.—In this subsection:

(A) The term "Commission" means the Fish and Wildlife Conservation Commission established by this subsection.

(B) The term "Endowment" means the National Endowment for Fish and Wildlife established by this subsection.

(9) CONFORMING AMENDMENT.—Section 7 of the North American Wetlands Conservation Act of 1989 (16 U.S.C. 4406) is amended by adding at the end the following:

"(e) FISH AND WILDLIFE COMMISSION FUNDING.—In addition to the amounts made available under subsections (a), (b), and (c) of this section, the Council may receive funds from the Fish and Wildlife Commission to carry out the purposes of this Act. Use of such funds shall not be subject to the cost allocation requirements of section 8 of this Act.".

SEC. 9003. ALASKA POWER ADMINISTRATION SALE.

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

(1) The term "Eklutna assets" means the Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term "Eklutna Purchase Agreement" means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto which were adopted before the enactment of this section.

(3) The term "Eklutna Purchasers" means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term "Secretary" means the Secretary of Energy except where otherwise specified.

(5) The term "Snettishan assets" means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(6) The term "Snettisham Purchase Agreement" means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto which were adopted before the enactment of this section.

(b) SALE OF SNETTISHAM AND EKLUNTA ASSETS.—

(1) SNETTISHAM.—The Secretary is authorized and directed to sell and transfer the Snettisham assets to the State of Alaska in accordance with the terms of this section and the Snettisham Purchase Agreement.

(2) EKLUTNA.—The Secretary is authorized and directed to sell and transfer the Eklutna assets to the Eklutna Purchasers in accordance with the terms of this section and the Eklutna Purchase Agreement.

(3) COOPERATION OF OTHER AGENCIES.—Other departments, agencies, and instrumentalities of the United States shall cooperate with the Secretary in implementing the sales and transfers under this section.

(4) AUTHORIZATION OF APPROPRIATIONS; CONTRIBUTED FUNDS.—(A) There are authorized to be appropriated such sums as may be necessary to prepare, survey, or acquire Snettisham and Eklutna assets for sale and transfer under this section. Such preparations and acquisitions shall provide sufficient title in the assets to ensure beneficial use, enjoyment, and occupancy thereof to the purchasers.

(B) Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchasers or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration required under subsection (d), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

(c) GENERAL PROVISIONS.—

(1) RIGHTS-OF-WAY AND OTHER LANDS FOR THE EKLUTNA PROJECT.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(A) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers at no cost to the Eklutna Purchasers.

(B) Such rights-of-way shall remain effective for a period equal to the life of the Eklutna hydroelectric project as extended by improvements, repairs, renewals, or replacements.

(C) Such rights-of-way shall be sufficient for the operation, maintenance, repair, and replacement of, and access to, the facilities of the Eklutna hydroelectric project located on military lands and lands managed by the Bureau of Land Management, including land selected by, but not yet conveyed to, the State of Alaska.

(D) If the Eklutna Purchasers subsequently sell or transfer the Eklutna hydroelectric project to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with applicable law.

(E) The Secretary shall transfer fee title to lands at Anchorage Substation to the Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to and selections of those lands are invalid or relinquished.

(F) With respect only to the Eklutna lands identified in Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey, to the State, improved lands under the selection entitlements in section 6 of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339) and the North Anchorage Land Agreement of January 31, 1983. The conveyance of such lands is subject to the rights-of-way provided to the Eklutna Purchasers under subparagraph (A).

(2) LANDS FOR THE SNETTISHAM PROJECT.—With respect to the Snettisham lands identified in Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlement in section 6 of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339).

(3) EFFECT ON STATE SELECTIONS.—Notwithstanding the expiration of the right of the State of Alaska to make selections under section 6 of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339), the State of Alaska may select lands authorized for selection under this section or any Purchase Agreement incorporated into or ratified by this section. The State shall complete such selections within one year after the date of the enactment of this section. The Secretary of the Interior shall convey lands selected by the State under this section notwithstanding the limitation contained in section 6(b) of the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339) regarding the occupancy, appropriation,

or reservation of selected lands. Nothing in this subsection shall be construed to authorize the Secretary of the Interior to convey to the State of Alaska a total acreage of selected lands in excess of the total acreage which could be transferred to the State of Alaska pursuant to the Alaska Statehood Act (Public Law 85–508; 72 Stat. 339), and other applicable law.

(4) REPEAL OF ACT OF AUGUST 9, 1955.—The Act of August 9, 1955 (69 Stat. 618), concerning water resources investigations in Alaska, is repealed.

(5) TREATMENT OF ASSET SALE.—The sales of assets under this section shall not be considered a disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(6) APPLICATION OF CERTAIN LAWS.—(A) The Act of July 31, 1950 (64 Stat. 382), shall cease to apply on the date, as determined by the Secretary, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

(B) Section 204 of the Flood Control Act of 1962 (Public Law 87–874; 76 Stat. 1193) shall cease to apply effective on the date, as determined by the Secretary, when all Snettisham assets have been conveyed to the State of Alaska.

(d) TERMINATION OF ALASKA POWER ADMINISTRATION.—

(1) TERMINATION OF ALASKA POWER ADMINISTATION.—Not later than one year after both of the sales authorized in this section have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary shall—

(A) complete the business of, and close out, the Alaska Power Administration;

(B) prepare and submit to Congress a report documenting the sales; and

(C) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(2) DOE ORGANIZATION ACT.—Section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended as follows:

(A) In paragraph (1)—

(i) by striking out subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively.

(B) In paragraph (2), by striking out "the Bonneville Power Administration, and the Alaska Power Administration" and inserting in lieu thereof "and the Bonneville Power Administration".

The amendments made by this paragraph shall take effect on the date on which the Secretary submits the report referred to in subparagraph (B) of paragraph (1).

(e) PROCEEDS.—The proceeds from the sale of Snettisham and Eklutna assets under this section shall be credited to miscellaneous receipts in the Treasury.

PART 2—HELIUM PRIVATIZATION

SEC. 9011. SHORT TITLE.

This part may be cited as the "Helium Privatization Act of 1995".

SEC. 9012. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this part 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 Helium Act (50 U.S.C. 167 to 167n).

SEC. 9013. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

"(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension

or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

"(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Privatization Act of 1995 except to the extent that such agreements are renewed or extended after such date.

"(b) STORAGE, TRANSPORTATION, AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

"(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) STORAGE, TRANSPORTATION, AND WITHDRAWAL.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective 18 months after the date of enactment of the Helium Privatization Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Privatization Act of 1995, except those activities described in subsection (a). The amount of helium reserves owned by the United States and stored in the Bureau of Mines Cliffside Field at such date of cessation, less 600,000,000 cubic feet, shall be the helium reserves owned by the United States required to be sold pursuant to section 8(b) hereof.

"(c) DISPOSAL OF FACILITIES.—(1) Within two years after the date on which the Secretary ceases producing, refining and marketing refined helium and ceases all other activities relating to helium in accordance with subsection (b), the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

"(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium or any equipment needed to maintain the purity, quality control, and quality assurance of helium in the reserve.

"(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Privatization Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).".

SEC. 9014. SALE OF CRUDE HELIUM.

Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(2) Subsection (b) is amended by inserting "crude" before "helium" and by adding the following at the end thereof: "Except as may be required by reason

of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.".

(3) Subsection (c) is amended by inserting "crude" before "helium" the first place it appears and by striking "together with interest as provided in subsection (d) of this section" and all that follows down through the period at the end of such subsection and inserting the following:

"all funds required to be repaid to the United States as of October 1, 1995, under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

"(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

"(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.".

(4) Subsection (d) is amended to read as follows:

"(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.".

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting "(1)" after "(f)" and by adding the following at the end thereof:

"(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.".

SEC. 9015. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) REVIEW OF RESERVES.—The Secretary shall review annually the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than Federally owned helium stored at the Cliffside Reservoir) at that time.

"(b) STOCKPILE SALES.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such minimum annual amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet (mcf) on a straight-line basis between such date and January 1, 2015: *Provided*, That the minimum price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c), and provided further that the minimum annual sales requirement may be deferred only if, and to the extent that, the Secretary is unable to arrange sales at the minimum price. The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, are necessary to carry out this subsection with minimum market disruption.

"(c) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b), as the case may be.".

SEC. 9016. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

SEC. 9017. REPORTS.

Section 16 is amended by redesignating existing section 16 as section 16(a) and inserting the following at the end thereof:

"(b)(1) The Inspector General of the Department of the Interior shall cause to be prepared, not later than March 31 following each fiscal year commencing with the date of enactment of the Helium Privatization Act of 1995, annual financial statements for the Helium Operations of the Bureau of Mines. The Director of the Bureau of Mines shall cooperate with the Inspector General in fulfilling this requirement, and shall provide him with such personnel and accounting assistance as may be necessary for that purpose. The financial statements shall be audited by the

General Accounting Office, and a report on such audit shall be delivered by the General Accounting Office to the Secretary of the Interior and Congress, not later than June 30 following the end of the fiscal year for which they are prepared. The audit shall be prepared in accordance with generally accepted government auditing standards.

"(2) The financial statements shall be comprised of the following:

"(A) A balance sheet reflecting the overall financial position of the Helium Operations, including assets and liabilities thereof;

"(B) the Statement of Operations, reflecting the fiscal period results of the Helium Operations;

"(C) a statement cash flows or changes in financial position of the Helium Operations; and

"(D) a reconciliation of budget reports of the Helium Operations.

"(3) The Statement of Operations shall include but not be limited to the revenues from, and costs of, sales of crude helium, the storage and transportation of crude helium, the production, refining and marketing of refined helium, and the maintenance and operation of helium storage facilities at the Bureau of Mines Cliffside Field. The term 'revenues' for this purpose shall exclude (A) royalties paid to the United States for production of helium or other extraction of resources, except to the extent that the Helium Operations incur direct costs in connection therewith, and (B) proceeds from sales of assets other than inventory. The term 'expenses' shall include, but not be limited to (i) all labor costs of the Bureau of Mines Helium Operations, and of the Department of the Interior in connection therewith, and (ii) for financial reporting purposes but not in connection with the determination of sales prices in section 6(c), all current-period interest on outstanding repayable amounts (as described in section 6(c)) calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.

"(4) The balance sheet shall include, but not be limited to, on the asset side, the present discounted market value of crude helium reserves; and on the liability side, the accrued liability for principal and interest on debt to the United States. For financial reporting purposes but not in connection with the determination of sales prices in section 6(c), the balance sheet shall also include accrued but unpaid interest on outstanding repayable amounts (as described in section 6(c)) through the date of the report, calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.".

SEC. 9018. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

(a) IN GENERAL.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (sometimes known as the G. D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

(1) FIRST TRACT.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:

Beginning at a stone 20 x 12 x 3 inches marked X, set by W. D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;

Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78:

Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78:

Thence North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;

Thence South 89 degrees 47 minutes East 965 varas to the place of beginning.

(2) SECOND TRACT.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:

Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones;

Thence North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78;Thence North 0 degrees 10 minutes West with the East line of the West half of Section 78;

Thence South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;

Thence South 0 degrees 12 minutes East 934.6 varas to the place of beginning.

Containing an area of 331 acres, more or less.

Subtitle B—Water and Power

PART 1—POWER MARKETING ADMINISTRATIONS

SEC. 9201. SHORT TITLE.

This part may be cited as the "Power Administration Act".

SEC. 9202. SALE OF THE SOUTHEASTERN POWER ADMINISTRATION.

(a) SALE OF THE SOUTHEASTERN POWER ADMINISTRATION ASSETS.—The Secretary of Energy (hereafter in this part referred to as the "Secretary") is authorized and directed to sell the facilities used to generate the electric power marketed by the Southeastern Power Administration, including all dams, locks, reservoirs, and related transmission and generation structures, equipment, facilities and real property (including rights-of-way) which are used in connection with the operation of such power generation facilities. The sale shall also include all contracts, marketing agreements, and any and all other rights, interests, and obligations held or owed by the Southeastern Power Administration. Each sale shall be subject to all existing storage rights in such reservoirs acquired by local interests pursuant to the Water Supply Act of 1958 (Public Law 85–500; 43 U.S.C. 390b) and sections 1, 2, and 3 of Public Law 88–140 (43 U.S.C. 390c through 390e) for water supply or other purposes and all such rights shall survive such sale; all obligations of the United States under contracts with such local interests for the use of such storage shall be assumed by any purchaser so that such local interests may continue to operate and utilize their storage in accordance with their existing contracts with the United States without entering into an additional contract with the United States or the purchaser, notwithstanding any provision of law or contract to the contrary. In order to assure that the facilities are transferred in a manner that provides a reasonable payment to the United States, sales under this section shall be made through a competitive bidding process open to all bidders determined by the Secretary to be financially qualified and who have the experience and resources necessary to manage the transferred assets. No facility or group of facilities may be sold for an amount less than the minimum bid established and published by the Secretary. The minimum bid shall be equal to the net present value of the outstanding debt repayable to the United States and attributable to the facility or group of facilities concerned.

(b) COOPERATION OF OTHER AGENCIES.—The heads of other affected Federal departments and agencies shall assist the Secretary in implementing the sales authorized by this section. Upon receiving a written request from the Secretary, the head of any such department or agency having administrative jurisdiction over any facility to be sold under this section shall transfer (at such time as may be specified by the Secretary in such request) such facility to the Secretary for purposes of effectuating such sale.

(c) FINANCIAL AND BID MANAGEMENT ADVISOR.—

(1) RETENTION OF ADVISOR.—Within six months of the date of enactment of this Act, the Secretary shall retain an experienced private sector firm to serve as financial and bid management advisor (hereinafter "advisor") to the Secretary with respect to such sales. The advisor shall not have any substantial financial interest in the existing assets, their operation or the ultimate purchasers.

(2) NOTICE.—Within six months after the date of enactment of this Act, the Secretary shall also publish a notice in the Federal Register soliciting all parties

which have an operational or ownership interest in the Southeast Power Administration to provide evidence of such interest within 90 days of the published notice.

(3) ADVISOR'S REPORT.—Within six months of being retained by the Secretary and based on information provided by the Secretary and the information obtained in paragraph (2), the advisor shall provide to the Secretary a report containing each of the following:

(A) A plan for the competitive sale of all assets and interests, held by the Southeastern Power Administration, out of Federal ownership and operation.

(B) An estimate of the net present value of the income expected to be derived over the next 50 years from each facility or group of facilities to be sold under this section.

(C) An estimate of the net present value of the expenses expected to be incurred over the next 50 years in connection with each facility or group of facilities to be sold under this section.

(D) a comparison between the net of subparagraphs (A) and (B) and the net present value of the outstanding debt which the Federal government attributes to the asset being sold.

(E) The options for the grouping of facilities to be sold under this section. The transfer shall be structured to transfer assets and interests of the Southeast Power Administration by watershed or by project unless the Advisor can provide satisfactory information to the Secretary that another alternative should be used. Groupings of assets shall specifically be designed to transfer all assets in a manner that provides reasonable payment to the United States of all assets within the Southeast Power Administration.

(d) PROCEEDS.—The Secretary is directed to use up to $6,000,000 from unobligated balances available to the Department of Energy to fund any sale preparation costs or studies provided for in this section, and shall provide an accounting of all sale preparation costs and studies to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate within 60 days after completion of the sale or study. The proceeds of any sale of a facility or group of facilities under this section shall be used first to offset the costs of carrying out such sale or study and the remaining net proceeds shall be deemed to extinguish the outstanding debt repayable to the United States and attributable to such facility or group of facilities. Any portion of such net proceeds which exceeds the net present value of the outstanding debt repayable to the United States and attributable to the facility or group of facilities concerned shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this part shall not be considered a disposal of Federal surplus property under the following provisions of law:

(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(f) EXISTING CONTRACTS, USES, ETC.—All sales of assets and rights under this section shall be subject to all contracts, debt obligations to non-Federal entities, and other binding agreements which apply, as of the date of such sale, to the facilities concerned and to the sale of electric power from such facilities. The purchaser of each such facility shall assume all liabilities and obligations of the United States under such contracts, obligations or other agreements. The Southeastern Power Administration shall not, after the date of enactment of this Act, enter into a long-term agreement, contract, or other long-term obligation or responsibility, except to the extent that such an obligation is essential to the continued operation of the Southeastern Power Administration or will significantly enhance or maintain the value of a facility after it is transferred. The United States shall remain responsible for concluding all lawsuits associated with the assets which are the subject of a transfer and which are extant as of the date of the enactment of this Act, whether in its capacity of plaintiff or defendant. Any right, title, or interest of the United States which exists at the conclusion of such lawsuits and which would otherwise have been transferred, but for the lawsuit, shall be transferred to the party in interest who acquired the related asset from the United States. The United States shall remain responsible for any outstanding Indian trust responsibilities, unless the transfer in question specifically identifies the obligation being transferred.

(g) REPORT TO FERC.—Not later than June 30, 1997, the Secretary shall provide each of the following to the Federal Energy Regulatory Commission each of the following:

(1) A description of—

(A) all the assets tangible and intangible that comprise each hydroelectric project to be sold under this section;

(B) the existing terms of operation with respect to such hydroelectric project; and

(C) any other interest being proposed for transfer.

(2) The information pertaining to such hydroelectric project required by title 18 of the Code of Federal Regulations, subparts B and F, or G, as appropriate, except exhibit E.

(3) The date when an offer for purchase of the assets must be submitted.

(h) NOTICE OF SALE AND SOLICITATION OF BIDS.—Not later than March 31, 1998, the Secretary shall publish a notice in the Federal Register which includes each of the following:

(1) A description of—

(A) all the assets tangible and intangible that comprise each hydroelectric project to be sold under this section;

(B) the existing terms of operation with respect to such hydroelectric project; and

(C) any other interest being proposed for transfer.

(2) The date, time, and conditions of the bids that must be met to submit a successful bid for the assets to be sold under this part.

(3) The terms and conditions identified in the proposed license provided from the Federal Energy Regulatory Commission to the Secretary under this part.

(i) DATE OF SALE.—All sales under this section shall be completed between July 1, 1999, and September 30, 1999.

(j) TERMINATION OF THE SOUTHEASTERN POWER ADMINISTRATION.—Following the sale of all facilities referred to in subsection (a), the Secretary shall complete the business of and close out the Southeast Power Administration and return the unexpended balances of funds appropriated for the Administration to the Treasury of the United States. To the extent practical, the purchasers under this section should, consistent with good business practices, attempt to offer to employ those former employees of the Southeastern Power Administration who are necessary to the continued operation of such facilities following the sale of the facilities.

SEC. 9203. FEDERAL ENERGY REGULATORY COMMISSION JURISDICTION.

(a) REGULATION OF RATES AND CHARGES.—All rates and charges established for the wholesale sale of electric power from facilities sold under section 9202 shall be subject to part 2 of the Federal Power Act. This subsection shall take effect upon the expiration of any contract which is applicable to the sale of such electric power on the date of the sale of the facility concerned. In approving, disapproving or establishing rates and charges for the sale of electric power from any facility sold under section 9202, the Federal Energy Regulatory Commission shall determine the extent to which any proposed increase in any such rate or charge is attributable to the sale of such facility. The Commission shall disallow any such increase to the extent the increase is attributable to such sale and is greater than ½ of the increase (between the date of sale of the facility and the date on which the application for a rate increase is filed) in the Consumer Price Index (published by the Bureau of Labor Statistics) for the region in which such power is sold. For purposes of determining the amount of a proposed increase in a rate or charge for the sale of electric power from any facility sold under section 9202, the increase shall be measured from the rates and charges in effect on date of the sale of the facility. This subsection applies to all wholesale purchasers who, for the calendar year ending immediately prior to the year in which this Act is enacted, received at least 20 percent of their power from the Southeastern Power Administration.

(b) ORIGINAL LICENSE.—Not later than January 1, 1998, the Federal Energy Regulatory Commission shall provide the Secretary with a proposed license for each hydroelectric project to be sold under section 9202. Not later than September 30, 1999, the Commission shall issue to the purchaser of each hydroelectric project sold under section 9202 a license under part I of the Federal Power Act (16 U.S.C. 791a–823b) authorizing the continued operation and maintenance of such project for a term of 30 years. Such license shall—

(1) be for the project purposes established by the existing terms of operation and shall be consistent with the proposed license provided to the Secretary;

(2) be conditioned upon the requirement that the licensed project continue to be operated and maintained in accordance with the existing terms of operation, except that the licensee may make improvements to the project which increase capacity without amendment to the license so long as existing minimum flows are not affected;

(3) be subject only to the appropriate standard "L-Form" license conditions, published at 54 FPC 1792–1928 (1975), except that the license may not be reopened for any purpose for the first 10 years of the license;

(4) provide a 10-year period for the licensee to meet the Commission's dam safety regulations, set forth at title 18 of the Code of Federal Regulations, part 12;

(5) not be subject to: the word "constructed" in section 3(10), the 4 provisos of section 4(e); section 6 to the extent it requires the licensee's acceptance of those terms and conditions of the Act that this subsection waives; section 10(e) as it concerns annual charges for the use and occupancy of Federal lands and facilities; section 10(f), section 10(j), section 18, section 19, section 20, and section 22 of the Federal Power Act (16 U.S.C. 796(10), 797(e), 799, 803(e), 803(f), 803(j), 811, 812, 813, and 815); and

(6) contain minimum flow restrictions no more restrictive than those currently in effect, if any, such minimum flow restrictions may not be altered during the primary term of the license.

(c) ACTS APPLICABLE TO LICENSING.—The issuance of a license pursuant to subsection (b) shall not be subject to the provisions of the Federal Land Policy and Management Act of 1976, section 2402 of the Energy Policy Act of 1992, the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, the Wild and Scenic Rivers Act, the Federal Water Pollution Control Act, the National Historic Preservation Act, the Coastal Zone Management Act, the Fish and Wildlife Coordination Act, or any other Act otherwise applicable to the licensing of the projects.

(d) EFFECT OF LICENSE.—A license issued under subsection (b)—

(1) is deemed to meet the licensing standards of the Federal Power Act, including section 10(a) and the last sentence of section 4(e) (16 U.S.C. 797(e)); and

(2) shall constitute the sole and exclusive source for a transferred hydroelectric project of authorizations and requirements with respect to project operation.

(e) RESERVATIONS.—Any power site reservation established by the President, the Department of the Interior, or pursuant to section 24 of the Federal Power Act (16 U.S.C. 818), or any other law, which exists on any lands, whether Federally or privately owned, that are included within the final project boundaries of a transferred hydroelectric project as approved by the Commission shall be vacated by operation of law upon issuance of a license for such project.

(f) RELICENSING.—All requirements of part I of the Federal Power Act and of any other Act applicable to the licensing of a hydroelectric project shall apply to a transferred hydroelectric project upon expiration of an original license issued under this section.

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

(1) The term "Commission" means the Federal Energy Regulatory Commission.

(2) The term "existing terms of operation" means any applicable statutes, executive department regulations, orders, rule curves and the like, memoranda of agreement, and contractual arrangements pertaining to a transferred hydroelectric project that were in effect as of the date of enactment of this Act.

(3) The term "transferred hydroelectric project" means the facilities, land, and other assets sold or to be sold to a transferee under this part and noticed by the Secretary, including any such land, facilities, or assets that comprise a project as defined in section 3(11) of the Federal Power Act (16 U.S.C. 796(11)).

SEC. 9204. EVALUATION OF SALES OF SOUTHWESTERN POWER ADMINISTRATION AND WESTERN AREA POWER ADMINISTRATION FACILITIES.

(a) ENABLING FEDERAL STUDIES.—Section 505 of the Energy and Water Development Appropriations Act of 1993 (Public Law 102–377) is hereby repealed.

(b) EVALUATION OF ISSUES.—The Secretary of Energy and the Secretary of the Interior shall enter into arrangements with an experienced private sector firm to serve as advisor to the Secretary with respect to the sale of the facilities used to generate and transmit the electric power marketed by the Southwestern Power Administration and the Western Area Power Administration, including all dams, locks, reservoirs, transmission and related structures, equipment, facilities and all real and tangible property (including rights-of-way) which are used in connection with such power generation and transmission facilities. Prior to December 31, 1996, the advisor shall provide to the Secretary and the Congress a report identifying all recipients of water and power from such facilities, all contracts, debt obligations, equity interests, and other binding agreements which apply to the facilities concerned and to the sale of electric power from such facilities, all assets tangible and intangi-

ble, all applicable requirements relating to environmental mitigation, Indian trust responsibilities, land ownership or use rights relevant to the proposed transfers which could terminate based on a transfer out of Federal ownership, and navigational requirements which affect the operation of such facilities. Such evaluation shall also include an evaluation of the tax consequences, and the revenue impacts of such consequences for the United States, of possible arrangements for the sale of such facilities to potential transferees. The report shall also investigate alternative groupings of the facilities for purposes of sale in order to determine which groupings would be most desirable for purposes of effectuating such sales. Proposed transfers should be structured by watershed or by project unless the advisor can provide satisfactory information to the Secretary that another alternative should be used. Asset groupings shall specifically be designed to effectuate the maximum return for all of the assets.

SEC. 9205. BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING.

(a) DEFINITIONS.—For the purposes of this section:

(1) The term "Administrator" means the Administrator of the Bonneville Power Administration.

(2) The term "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838(k)).

(3) The term "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995.

(4) The term "old capital investment" means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995; and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995.

(5) The term "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment.

(6) The term "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) NEW PRINCIPAL AMOUNTS.—(1) Effective October 1, 1995, an old capital investment shall have a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) With the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under paragraph (1) and the assignment of interest rates to the new principal amounts under subsection (c).

(3) For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this section were not enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.—As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) shall bear interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) REPAYMENT DATES.—As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under subsection (b) shall be no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A).

(e) PREPAYMENT LIMITATIONS.—During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under subsection (b), that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.—(1) The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) The Administrator shall not be required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under paragraph (1).

(3) For the purposes of this subsection, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS.—The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.—The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

"(a) IN GENERAL.—So long as the Adminisatrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997;

$16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) The term 'settlement agreement' means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

"(2) The term 'Tribes' means the Confederated Tribes of the Colville Reservation, a Federally recognized Indian Tribe.".

(i) CONTRACT PROVISIONS.—In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b);

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c);

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b), and to pay the interest on the principal amount under subsection (c), no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Act; and

(4) the contract provisions specified in this Act shall not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) SAVINGS PROVISIONS.—(1) This section does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(2) Except as provided in subsection (e) of this section, this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

(k) DOE STUDY.—(1) The Administrator shall undertake a study to determine the effect that increases in the rates for electric power sales made by the Administrator may have on the customer base of the Bonneville Power Administration. Such study shall identify other sources of electric power that may be available to customers of the Bonneville Power Administration and shall estimate the level at which higher rates for power sales by the Administration may result in the loss of customers by the Administration.

(2) The Administrator shall undertake a study to determine the total prior costs incurred by the Bonneville Power Administration for compliance with the provisions

of the Endangered Species Act of 1973 and the total future costs anticipated to be incurred by the Administration for compliance with such provisions.

(3) The Administrator shall submit the results of the studies undertaken under this section to the Congress within 180 days after the date of the enactment of this Act.

PART 2—RECLAMATION

SEC. 9211. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.".

SEC. 9212. TREATMENT OF CITY OF FOLSOM AS A CENTRAL VALLEY PROJECT CONTRACTOR.

For the purposes of being considered eligible to be a transferee of Central Valley Project water to be used for municipal and industrial purposes, the city of Folsom, California, shall be treated as a Central Valley Project contractor as of November 1, 1990.

SEC. 9213. SLY PARK.

(a) SHORT TITLE.—This section may be cited as the "Sly Park Unit Conveyance Act".

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

(1) The term "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852), together with all other facilities owned by the United States including those used to convey and store water delivered from Sly Park, as well as all recreation facilities associated thereto.

(c) SALE OF THE SLY PARK UNIT.—

(1) IN GENERAL.—The Secretary shall, within one year after the date of enactment of this Act, sell and convey to the El Dorado Irrigation District the Sly Park Unit. Within such one-year period, the Secretary shall also transfer and assign the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permits numbered 2631, 5645A, 10473, and 10474 to the El Dorado Irrigation District.

(2) SALE PRICE.—The sale price shall not exceed—

(A) the construction costs ($30,926,230), as included in the accounts of the Secretary, plus

(B) interest on the construction costs allocated to domestic use, at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852), up to an agreed upon date, less

(C) all revenues to date as collected under the terms of the contract between the United States and the El Dorado Irrigation District, estimated at $9,146,885.

(3) TERMS OF PAYMENT.—The Secretary shall provide for a payment of the purchase price under paragraph (2) on terms not to exceed 20 years. The interest rate to be paid by the District shall be the authorized rate included in the Act of October 14, 1949 (63 Stat. 852). Section 213(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(c)) shall not apply to the purchase of the Sly Park Unit under this section.

(4) CONVEYANCE.—Upon signing the agreement to carry out the sale required by this section, the Secretary shall convey and assign to the El Dorado

Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit.

(5) NO ADDITIONAL ENVIRONMENTAL IMPACT.—The Congress specifically finds that (A) the sale, conveyance and assignment of the Sly Park Unit and water rights under this section involves the transfer of the ownership and operation of an existing ongoing water project, (B) the Sly Park Unit operation, facilities and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not involve any additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights shall not be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

SEC. 9214. HETCH HETCHY DAM.

Section 7 of the Act of December 19, 1913 (38 Stat. 242), is amended—

(1) by striking "$30,000" in the first sentence and inserting "$8,000,000", and

(2) by amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".

Subtitle C—National Parks, Forests, and Public Lands

PART 1—CONCESSION REFORM

SEC. 9301. SHORT TITLE.

This part may be cited as the "Visitor Facilities and Services Enhancement Act of 1995".

SEC. 9302. PURPOSE.

The purpose of this part is to ensure that quality visitor facilities and services are provided by the Federal land management agencies (Forest Service, United States Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Reclamation and United States Army Corps of Engineers). Each Federal land management agency shall implement a program to encourage appropriate development and operation of services and facilities for the accommodation of visitors. The program implemented by each such agency shall consist of actions which—

(1) recognize the importance of the private sector in providing a quality visitor experience on Federal lands by encouraging private sector investments for facilities and services on Federal lands under a fair and competitive process;

(2) establish the basis for an effective relationship between the land management agencies and private businesses operating on public lands and waters in efforts to serve the public and to protect the resources of these areas;

(3) measure quality and value of services provided by concessioners and provide incentives for consistent excellence.

(4) ensure a fair return to the Federal Government; and

(5) are consistent among the various agencies to the extent practicable in order to increase efficiency of the Federal Government and simplify requirements for concessioners.

SEC. 9303. DEFINITIONS.

For the purposes of this part:

(1) The term "adjusted gross receipts" means gross receipts less revenue derived from goods and services provided on other than Federal lands or conveyed to units of Government for hunting or fishing licenses or for entrance or recreation fees, or from such other exclusions as the Secretary concerned might apply.

(2) The term "agency head" means the head of an agency or his or her designated representative.

(3) The term "concessioner" means a person or other entity acting under a concession authorization which provides public services, facilities, or activities on Federal lands or waters pursuant to a concession services agreement or concession license.

(4) The term "concession license" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide recreation services or activities on a limited basis as well as the rights and obligations of the Federal Government.

(5) The term "concession service agreement" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide visitor services, facilities, or activities as well as the rights and obligations of the Federal Government.

(6) The term "gross receipts" means revenue from goods or services provided by concession services, facilities, or activities on Federal lands and waters.

(7) The term "performance incentive" means a credit based on past performance toward the score awarded by the Secretary to a concessioner's proposal submitted in response to a solicitation for the reissuance of such contract.

(8) The term "proposal" means the complete submission for a concession service agreement offered in response to the solicitation for such concession service agreement.

(9) The term "prospectus" means a document or documents issued by the Secretary concerned and included with a solicitation which sets forth the minimum requirements for the award of a concession service agreement.

(10) The term "Secretary concerned" means—

(A) the Secretary of the Interior with respect to the United States Fish and Wildlife Service, National Park Service, Bureau of Land Management, and Bureau of Reclamation;

(B) the Secretary of Agriculture with respect to the Forest Service; and

(C) the Secretary of the Army with respect to the United States Army Corps of Engineers.

(11) The term "solicitation" means a request by the Secretary concerned for proposals in response to a prospectus.

SEC. 9304. NATURE AND TYPES OF CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned may enter into concession authorizations, as follows:

(1) CONCESSION SERVICES AGREEMENT.—A concession service agreement shall be entered into for all concessions where the Secretary concerned makes a finding that the provision of concession services is in the interest of the Federal Government and issues either a competitive offering for concession services, facilities or activities or a noncompetitive offering for such services, facilities, or activities based on a finding that due to special circumstances it is not in the public interest of the United States to award a concession service agreement on a competitive basis. Where the concessioner develops or uses fixed facilities on Federal lands, the Secretary concerned shall issue a lease.

(2) CONCESSION LICENSE.—Whenever the Secretary concerned makes a finding that public enjoyment of Federal lands would be enhanced through the provision of concession services and that there exists no need to limit the number of concessioners providing such services, he shall consider entering into a concession license with a qualified concessioner. Activities covered under a concession license would typically be one-time, intermittent, or infrequently scheduled. The Secretary concerned may not limit the number of concession licenses issued for the same types of activities in a particular geographic area. The Secretary concerned shall monitor such concession licenses to determine whether issuance of a concession service agreement would be a more appropriate authorization.

(3) LANDS UNDER MULTIPLE JURISDICTIONS.—The Secretaries of the Departments concerned shall designate an agency to be the lead agency concerning concessions which conduct a single operation on lands or waters under the jurisdiction of more than one agency. Unless otherwise agreed to by each such Secretary concerned, the lead agency shall be that agency under whose jurisdiction the concessioner generates the greatest amount of gross receipts. The agency so designated shall issue a single authorization and collect a single fee under paragraphs (1) and (2) for such operation. Such authorization shall provide for use in a manner consistent with the plans and policies for each agency.

(b) LEASES OF AREAS TO STATES AND STATE THIRD PARTY AGREEMENT NOT COVERED.—This part does not apply to leases or licenses of entire areas to States or other political subdivisions or to any third party agreement issued by any such State or political subdivisions with respect to such entire area.

SEC. 9305. COMPETITIVE SELECTION PROCESS FOR CONCESSION SERVICE AGREEMENTS.

(a) AWARD TO BEST PROPOSAL.—The Secretary shall enter into, and reissue, a concession service agreement with the person whom the Secretary determines in accordance with this section submits the best proposal through a competitive process as defined in this section.

(b) SOLICITATION AND PROSPECTUS.—The Secretary concerned shall prepare a solicitation and prospectus which describes the concession service opportunity and shall publish, in appropriate locations, announcements of the availability of the solicitation, prospectus, and the concession service opportunity. The solicitation shall include (but need not be limited to) the following:

(1) A description of the services and facilities to be provided by the concessioner.

(2) The level of capital investment required by the concessioner (if any).

(3) Terms and conditions of the concession service agreement.

(4) Minimum facilities and services to be provided by the Secretary to the concessioner and the public.

(5) Minimum fees to the United States.

(c) FACTORS AND MINIMUM STANDARDS IN DETERMINING BEST PROPOSAL.—The prospectus shall assign a weight to each factor indentified therein related to the importance of such factor in the selection process. Points shall be awarded for each such factor, based on the relative strength of the proposal concerning that factor. In determining the best proposal, the Secretary concerned shall take into consideration (but shall not be limited to) the following, including whether the proposal meets the minimum requirements (if any) of the Secretary for each of the following:

(1) Responsiveness to the prospectus.

(2) Quality of visitor services taking into account the nature of equipment and facilities to be provided.

(3) Experience and performance in providing similar services. This factor shall account for not less than 20 percent of the maximum points available under any prospectus. Where the Secretary concerned determines it to be warranted to provide for a high quality visitor experience, the prospectus for a concession service agreement shall provide greater weight to this factor based on such aspects of the concession service agreement as scope or size, complexity, nature of technical skills required, and site-specific knowledge of the area. The similarity of the qualifying experience outlined in the proposal to the nature of the services required under the concession service agreement and the length of such qualifying experience shall be the basis for awarding points for this factor.

(4) Record of resource protection (as appropriate for services and activities with potential to impact natural or cultural resources).

(5) Financial capability.

(6) Fees to the United States.

(d) SELECTION PROCESS.—The process for selecting the best proposal shall consist of the following:

(1) First, the Secretary concerned shall identify those proposals which meet the minimum standards (if any) for the factors identified under subsection (c).

(2) Second, the Secretary concerned shall evaluate all proposals identified under paragraph (1), considering all factors identified under subsection (c), as well as performance incentives earned under section 9306(c) and renewal penalties incurred under section 9306(d).

(3) Third, the Secretary concerned shall offer the concession service agreement to the best qualified applicant as determined by the evaluation under paragraph (2).

(e) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS AGREEMENTS.—The temporary extension of a concession authorization, or reissuance of a concession authorization to provide concession services similar in nature and amount to concession services provided under the previous authorization, is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(f) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessioners to provide services closely related to such agreement, if the Secretary concerned determines that

such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.

SEC. 9306. CONCESSIONER EVALUATIONS.

(a) IN GENERAL.—The Secretary concerned shall develop a program of evaluations of the concessioners operating under a concession service agreement who are providing visitor services in areas under the jurisdiction of the Secretary. The evaluations shall be on an annual basis over the duration of the concession service agreement. In developing the evaluation program, the Secretary concerned shall seek broad public input from concessioners, State agencies, and other interested persons. The evaluation program shall—

(1) include the four program areas of: quality of visitor services provided; resource protection (as applicable); financial performance; and compliance with concession service agreement provisions and pertinent laws and regulations;

(2) define three levels of performance—

(A) good, which shall be defined as a level of performance which exceeds the requirements outlined in the prospectus, but which is attainable;

(B) satisfactory, which shall be defined as meeting the requirements as contained in the prospectus; and

(C) unsatisfactory, which shall be defined as not meeting the requirements contained in the prospectus;

(3) be based on criteria which—

(A) are objective, measurable, and attainable; and

(B) shall include as applicable general standards for all concession operations, industry-specific standards, and standards developed by the Secretary concerned in consultation with the concessioner for each concession service agreement;

(4) be designed in such a manner that the annual evaluation represents the overall performance of the concessioner without undue weight to matters of limited importance; and

(5) take into account factors beyond the control of the concessioner, such as general market and other economic fluctuations, as well as weather and other natural phenomena, so that such factors may not be used as a justification for denial of performance incentives.

(b) ANNUAL EVALUATIONS.—

(1) REQUIREMENTS.—The Secretary concerned shall at least semiannually review the performance of each concessioner and shall assign an overall rating for each concessioner for each year. The procedure for any performance evaluation shall be provided to the concessioner prior to the beginning of any evaluation period. Such procedure shall provide for adequate notification of the concessioner prior to any on-site evaluation and permit a representative of the concessioner to observe the evaluation. The concessioner shall be entitled to a complete explanation of any rating given. If the Secretary's performance evaluation for any year results in an unsatisfactory rating of the concessioner, the Secretary concerned shall so notify the concessioner, in writing. Such notification shall identify the nature of conditions which require corrective action and shall provide the concessioner with a list of corrective actions necessary to meet the standards.

(2) SUSPENSION, REVOCATION, AND TERMINATION OF AUTHORIZATION.—The Secretary concerned may suspend, revoke, or terminate a concession authorization if the concessioner fails to correct the conditions identified by the Secretary within the limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner. The Secretary may immediately suspend or revoke a concession authorization where necessary to protect the public health or welfare.

(c) PERFORMANCE INCENTIVES.—

(1) In evaluating the performance of a concessioner, the incumbent concessioner is entitled to a performance incentive of—

(A) one percent of the maximum points available under such evaluations for performance in each year in which the concessioner's annual performance is rated good, as specified in subsection (a)(2)(A), and

(B) a one-time three year merit term extension upon a finding that a concessioner has been rated as good in each annual performance evaluation through the term of the concession service agreement.

(2) A performance incentive awarded under paragraph (1)(A) may not exceed 10 percent of the maximum points available under such evaluations over the life of the concession service agreement.

(d) RENEWAL PENALTY.—In evaluating the performance of a concessioner, a concessioner shall be penalized one percent of the maximum points available under such evaluation for performance in each year in which the concessioner's annual performance is found to be unsatisfactory.

SEC. 9307. CAPITAL IMPROVEMENTS.

(a) PRIVATE SECTOR DEVELOPMENT.—It is the policy of the United States to encourage the private sector to develop, own, and maintain to the extent possible such public recreation facilities which would enhance public use and enjoyment of Federal lands as are contained in approved plans developed by the Secretary concerned. Under the terms of this part, concessioners may only construct or finance construction under terms of section 9312 such public facilities on Federal lands as are to be used by the concessioner under the terms of their concession service agreement or facilities which are necessary for the concessioner to administer such public facilities on Federal lands.

(b) INVESTMENT INTEREST.—

(1) IN GENERAL.—A concessioner, who is required or authorized under a concession service agreement pursuant to this part to acquire or construct any structure, improvement, or fixture pursuant to such agreement on Federal lands shall have an investment interest therein, to the extent provided by the agreement and this part. Such investment interest shall not be extinguished by the expiration of such agreement. Such investment interest may be assigned, transferred, encumbered or relinquished.

(2) LIMITATION.—Such investment interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use of any improvement in which the concessioner has an investment interest shall be wholly subject to the applicable provisions of the concession service agreement and of laws and regulations relating to the area.

(3) FEDERAL PROPERTY.—The agreement shall specify which new improvements required under terms of the concession service agreement, if any, shall become the property of the Federal Government at the end of the agreement. No concession service agreement shall provide for a concessioner to obtain an investment interest in any building which is wholly owned by the Federal Government. Title to the land on which such structure, improvement, or fixture is placed shall remain in the United States.

(c) SALE OF ASSETS.—If the existing concessioner is not selected as the best qualified applicant at the time of reissuance of a concession service agreement, the Secretary concerned shall require the new concessioner to buy the investment interest of the existing concessioner.

(d) CLOSURE OF CONCESSIONER FACILITIES.—In the event of a decision by the Secretary concerned, that the public interest, by reason of public and safety considerations or for other reasons beyond the control of the concessioner, requires the discontinuation or closure of facilities in which the concessioner has an investment interest, the Secretary shall compensate the concessioner in the amount equal to the value of the investment interest.

(e) DETERMINATION OF VALUE OF INVESTMENT INTEREST.—For purposes of this part, the investment interest of any capital improvement at the end of the concession service agreement period is the actual cost of construction of such capital improvement adjusted from the completion of such construction by changes in the Consumer Price Index (selected in the same manner as such Index is selected under section 9311(c)(2)) less depreciation evidenced by the condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. Such value shall be determined by appraisal and included in any prospectus.

SEC. 9308. DURATION OF CONCESSION AUTHORIZATION.

(a) CONCESSION SERVICE AGREEMENT.—The standard term of a concession service agreement shall be ten years. The Secretary concerned may issue a concession service agreement for less than ten years if he determines (in his discretion) that the average annual gross receipts over the life of the concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than five years. The Secretary concerned shall issue a concession service agreement for longer than ten years if the Secretary determines (in his discretion) that such longer term is in the public interest or necessary due to the extent of investment and associated financing requirements and to meet the obligations assumed. The term for a concession service agreement may not exceed 30 years.

(b) CONCESSION LICENSE.—The term for a concession license may not exceed two years.

(c) TEMPORARY EXTENSION.—The Secretary may agree to temporary extensions of concession service agreements for up to two years on a noncompetitive basis to avoid interruption of services to the public.

SEC. 9309. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements only, a concessioner's rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the area in which the concessioner operates. In those instances, the concession service agreement shall state that the reasonableness of the concessioner's rates and charges to the public shall be reviewed and approved by the Secretary concerned primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary concerned. Such review shall be completed within 90 days of receipt of all necessary information, or the requirement for the Secretary's approval shall be waived and such rates and charges as proposed by the concessioner considered to be approved for immediate use.

SEC. 9310. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.

(a) CONCESSION SERVICE AGREEMENTS.—

(1) APPROVAL REQUIRED.—A concession service agreement is transferable or assignable only upon the approval of the Secretary concerned, which approval may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective concessioner is or is likely to be unable to completely satisfy all of the material requirements, terms, and conditions of the agreement or that the terms of the transfer or assignment would preclude providing appropriate facilities or services to the public at reasonable rates.

(2) CONSIDERATION PERIOD.—If the Secretary fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days after the date on which the Secretary receives all necessary information requested by the Secretary with respect to such transfer, the transfer or assignment shall be deemed approved.

(3) NO MODIFICATION OF TERMS AND CONDITIONS.—The terms and conditions of the concessions service agreement shall not be subject to modification by reason of any transfer or assignment under this section.

(4) PERFORMANCE INCENTIVE.—Upon approval of the sale or transfer, the prospective concessioner shall be entitled to the benefit of performance incentives earned by the previous concessioner.

(b) CONCESSION LICENSE.—A concession license may not be transferred.

SEC. 9311. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this part. The fee for any concession service agreement may include any of the following:

(1) An annual cash payment for the privilege of providing concession services.

(2) The amount required for capital improvements required pursuant to section 9307(a).

(3) Fees for rental or lease of Government-owned facilities or lands occupied by the concessioner.

(4) Expenditures for maintenance of or improvements to Government-owned facilities occupied by the concessioner.

(b) ESTABLISHMENT OF AMOUNT.—

(1) MINIMUM ACCEPTABLE FEE.—The Secretary concerned shall establish a minimum fee for each applicable category specified in paragraphs (1) through (4) of subsection (a) which is acceptable to the Secretary under this section and shall include the minimum fee in the prospectus under section 9305. This fee shall be based on historical data, where available, as well as industry-specific and other market data available to the Secretary concerned.

(2) FINAL FEE.—Except as provided by paragraph (3), the final fee shall be the amount bid by the selected applicant under section 9305.

(3) SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—Where the Secretary concerned simultaneously offers authorizations for more than one river runner, outfitter, or guide concession operation to provide sub-

stantially similar services in a defined geographic area, the concession fee for all such concessioners shall be specified by the Secretary concerned in the prospectus. The Secretary concerned shall base the fee on historical data, where available, as well as on industry-specific and other market data available to the Secretary concerned or may establish a charge per user day.

(c) ADJUSTMENT OF FEES.—

(1) IN GENERAL.—The amount of any fee for the term of the concession service agreement shall be set at the beginning of the concession authorization and may only be modified on the basis of inflation, if the annual payment is not determined by a percentage of adjusted gross receipts (as measured by changes in the Consumer Price Index), to reflect substantial changes from the conditions specified in the prospectus, or in the event of an unforeseen disaster.

(2) CPI.—For the purposes of adjustments for inflation under paragraph (1), the Federal agencies shall select a Consumer Price Index published by the Bureau of Labor Statistics and shall use such index in a consistent manner.

(d) CONCESSION LICENSE FEE.—The fee for a concession license shall at least cover the program administrative costs and may not be changed over the term of the license.

SEC. 9312. DISPOSITION OF FEES.

(a) CONCESSION IMPROVEMENT ACCOUNT.—

(1) IN GENERAL.—The Secretary concerned shall, whenever the concession service agreement requires or authorizes the concessioner to make capital improvements or occupy Government-owned facilities, require the concessioner to establish a concession improvement account. The concessioner shall deposit into this account—

(A) all funds for capital improvements as specified in the concession service agreement;

(B) all funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner; and

(C) all amounts received from the Secretary concerned pursuant to subsection (b).

(2) TERMS AND CONDITIONS.—The account shall be maintained by the concessioner in an interest bearing account in a Federally insured financial institution. The concessioner shall maintain the account separately from any other funds or accounts and shall not commingle the monies in the account with any other moneys. The Secretary concerned may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of the account.

(3) DISBURSEMENTS.—The concessioner shall make disbursements from the account for improvements and other activities, only as specified in the concession service agreement and subsection (b)(2)(C).

(4) RECORDS.—The concessioner shall maintain proper records for all disbursements made from the account. Such records shall include (but not be limited to) invoices, bank statements, canceled checks, and such other information as the Secretary concerned determines to be necessary.

(5) ANNUAL FINANCIAL STATEMENT.—The concessioner shall annually submit to the Secretary concerned a statement reflecting total activity in the account for the preceding financial year. The statement shall reflect monthly deposits, expenditures by project, interest earned, and such other information as the Secretary concerned requires.

(6) TRANSFER OF REMAINING BALANCE.—Upon the termination of a concession authorization, or upon the transfer of a concession service agreement, any remaining balance in the account shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is no successor concessioner, the account balance shall be deposited in the Treasury as miscellaneous receipts.

(b) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF PROVIDING CONCESSION SERVICES AND RENTAL OF GOVERNMENT-OWNED FACILITIES.—

(1) DEPOSIT INTO TREASURY.—The Secretary concerned shall deposit into the Treasury of the United States as miscellaneous receipts amounts received for a fiscal year for the privilege of providing concession services and the rental of Government-owned facilities up to the amount specified in the table in paragraph (3) for the National Park Service for that fiscal year. For the other agencies covered under this part, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees within 18 months of the date of enactment of this Act. Nothing in this part shall be construed to modify any

provision of law relating to sharing of Federal receipts with any other level of Government.

(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—(A) Amounts received by the Secretary concerned for a fiscal year for the privilege of providing concession services and the use of Government-owned facilities which exceed the amount specified in the table in paragraph (3) for that fiscal year shall be available for deposit in the succeeding fiscal year into concession improvement accounts.

(B) Of the amounts available for deposit into concession improvement accounts, the Secretary shall make available to each concessioner a percentage of such excess amounts which bears the same ratio as the amount paid by the concessioner to the Secretary concerned for a fiscal year for the privilege of providing concession services and the use of Government-owned facilities bears to the total amount paid to the Secretary concerned by all concessioners for that fiscal year for such privilege on an agency-wide basis.

(C) Amounts made available to a concessioner under this paragraph may be used only for expenditures on visitor services and facilities at the area at which the funds were generated.

(3) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—The table referred to in paragraph (2), expressed by fiscal year on an agency basis, is as follows:

National Park Service

Fiscal year:	Amount:
1997	$15,800,000
1998	$21,100,000
1999	$26,700,000
2000	$32,300,000
2001	$38,200,000
2002	$44,400,000.

(c) AUDIT REQUIREMENT.—Beginning with fiscal year 1998, the Inspector General of the Department concerned shall conduct a biennial audit of concession fees generated pursuant to this part. The Inspector General shall make a determination as to whether concession fees are being collected and expended in accordance with this part and shall submit copies of each audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9313. DISPUTE RESOLUTION.

(a) BOARD OF CONTRACT APPEALS.—The Board of Contract Appeals within each Department shall adjudicate disputes between the Federal Government and concessioners arising under this part, including disputes regarding the revocation, suspension, or termination of a concession authorization, transfers of concession service agreements, and performance evaluations of concessions. Such disputes shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.). The expiration of a concession authorization shall not be subject to appeal to the Board.

(b) ADMINISTRATIVE REVIEW.—Appeals of decisions may be taken to the Board of Contract Appeals after one level of review of decisions made within an agency.

(c) EXPEDITED PROCEDURE.—Appeals of decisions to suspend, revoke, or terminate a concession authorization shall be considered under an expedited procedure, as provided by the Secretary concerned by regulation.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—A person may seek judicial review of decisions made by the Board. Such review shall be conducted by the court with jurisdiction on a de novo basis.

(2) CONCESSION SERVICE AGREEMENTS.—Judicial review of decisions rendered by the Board regarding concession service agreements shall be to the United States Court of Federal Claims in accordance with section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act").

(3) CONCESSION LICENSES.—Judicial review of decisions rendered by the Board regarding concession licenses shall be to the appropriate Federal District Court.

(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—Disputes arising under this part shall not be subject to the jurisdiction of the General Accounting Office to review bid protests under the Competition in Contracting Act of 1984.

SEC. 9314. RECORDKEEPING.

(a) MAINTENANCE AND ACCESS.—Each concessioner shall keep such records as the Secretary concerned may prescribe to enable the Secretary to determine that all terms of the concession authorization have been and are being faithfully performed,

and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access at reasonable times and locations to such records and to other books, documents, and papers of the concessioner pertinent to the concession authorization and all the terms and conditions thereof.

(b) ACCESS BY COMPTROLLER GENERAL.—The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five calendar years after the close of the business year of each concessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the concession authorization involved.

SEC. 9315. APPLICATION OF GENERAL GOVERNMENTAL ACQUISITION REQUIREMENTS.

The following laws and regulations shall not apply to concession service agreements and concession licenses under this part:

(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–266).

(2) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(3) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

(4) The Brooks Automatic Data Processing Act (40 U.S.C. 759).

(5) Chapters 137 and 141 of title 10, United States Code.

(6) The Federal Acquisition Regulation and any laws not listed in paragraphs (1) through (5) providing authority to promulgate regulations in the Federal Acquisition Regulation.

(7) The Act of June 20, 1936 (20 U.S.C. 107; commonly referred to as the "Randolph-Sheppard Act") and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.).

SEC. 9316. RULES OF CONSTRUCTION.

Concession programs of an agency on Federal lands and waters subject to this part shall be fully consistent with the agency's mission and laws applicable to the agency. Nothing in this part shall be construed as limiting or restricting any right, title, or interest of the United States in any land or resources.

SEC. 9317. REGULATIONS.

(a) IN GENERAL.—Pursuant to enactment of this part, no new concession authorization may be issued, nor may any existing concession authorization remain in effect after two years after the date of the enactment of this Act, unless regulations fully implementing this part are in effect. During such two-year period, the Secretary may only extend an existing concession authorization for a period ending at the end of such two-year period. Such extensions shall be made in accordance with the applicable provisions of law specified in section 9318, as such provisions were in effect on the day before the date of the enactment of this Act. The Secretary of the Interior, Secretary of Agriculture, and Secretary of the Army shall develop a single set of regulations which specify a uniform set of recordkeeping requirements for all concessioners with respect to implementation of this part.

(b) QUALIFICATIONS OF AGENCY PERSONNEL ASSIGNED CONCESSION MANAGEMENT DUTIES.—The Secretary, by regulation under subsection (a) and taking into account the provisions of this part, shall specify the minimum training and qualifications required for agency personnel assigned predominantly to concession management duties, including (but not limited to) competency in business management, public health and safety, and the delivery of quality customer services.

SEC. 9318. RELATIONSHIP TO OTHER EXISTING LAWS.

(a) REPEALS.—

(1) The Act entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes" (16 U.S.C. 20–20g) approved October 9, 1965, is repealed.

(2) The last paragraph under the heading "FOREST SERVICE" in the Act of March 4, 1915 (38 Stat. 1101), as amended by the Act of July 28, 1956 (chap. 771; 70 Stat. 708) (16 U.S.C. 497), is repealed.

(3) Section 7 of the Act of April 24, 1950 (16 U.S.C. 580d) is repealed.

(b) SUPERSEDED PROVISIONS.—The provisions of this part shall supersede the provisions of the following Acts as they pertain to concessions management:

(1) The Federal Land Policy and Management Act of 1976 (Oct. 21, 1976).

(2) Public Law 87–714 (16 U.S.C. 460k et seq.; commonly known as the "Refuge Recreation Act").

(3) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd).

(c) CONFORMING AMENDMENT.—The fourth sentence of section 3 of the Act of August 25, 1916 (16 U.S.C. 3; 39 Stat. 535), is amended by striking all through "no natural" and inserting in lieu thereof "No natural".

(d) MODIFIED PROVISIONS.—The second sentence of section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" (16 U.S.C. 460d) is amended by inserting ", except for commercial concessions purposes" the first place it appears after "public interest".

(e) SAVINGS.—

(1) IN GENERAL.—The repeal of any provision, the superseding of any provision, and the amendment of any provision, of an Act referred to in subsections (a), (b), or (c) shall not affect the validity of any authorizations entered into under any such Act. The provisions of this part shall apply to any such authorizations, except to the extent such provisions are inconsistent with the express terms and conditions of such authorizations.

(2) RIGHT OF RENEWAL.—The right of renewal explicitly provided for by any concession contract under any such provision shall be preserved for a single renewal of a contract following the enactment of, or concession authorization under, this part.

(3) VALUE OF CAPITAL IMPROVEMENTS OR POSSESSORY INTEREST.—Nothing in this part shall be construed to change the value of existing capital improvements or possessory interest as identified in concession contracts entered into before the enactment of this Act.

(4) ANILCA.—Nothing in this part shall be construed to amend, supersede or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

(5) SKI AREA PERMITS.—No provision of this part shall apply to any ski area permittee operating on lands administered by the Forest Service.

(6) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONERS IN REISSUANCE OF CONTRACTS.—In the case of any concession contract which has expired prior to the date of the enactment of this Act, or within five years after the date of the enactment of this Act, the incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate five years or later after the enactment of this Act, any concessioner shall be entitled to a performance incentive as outlined in this part. The concessioner shall be entitled to an evaluation for the purposes of section 9306 of good for each year in which the Secretary concerned does not complete an evaluation as provided for in this part.

PART 2—NATIONAL FOREST SKI AREAS

SEC. 9321. PRIVATIZATION OF FOREST SERVICE SKI AREAS.

(a) AUTHORIZATION TO SELL.—

(1) IN GENERAL.—Not later than five years after the date of enactment of this part, the Secretary of Agriculture shall offer to sell not less than 40 ski areas to the qualifying ski area operator. Any such sale shall provide for continuation of public access for diverse recreational uses. The Secretary shall offer such areas for sale only after consultation with State and local governments. Any such sale shall be at fair market value and, subject to valid existing rights, shall transfer all right, title, and interest of the United States in and to the lands. In any such sale, the Secretary shall establish the minimum acceptable bid based on the appraised fair market value of such lands.

(2) QUALIFYING LANDS.—For the purposes of subsection (a), lands are qualifying concession lands if such lands are—

(A) subject to a lease on the date of the enactment of this Act for use as a ski area with improvements with a fair market value greater than $2,000,000; and

(B) located either adjacent to the boundary of the Federal lands or adjacent to other significant private inholdings.

(b) APPRAISAL.—

(1) IN GENERAL.—The Secretary shall provide for an independent appraisal of the lands and interests therein to be transferred pursuant to subsection (a). The appraiser shall—

(A) utilize nationally recognized appraisal standards, including to the extent appropriate the uniform appraisal standards for Federal land acquisition; and

(B) not include the value of any improvement placed on the lands by the concessioner.

(2) APPRAISAL REPORT.—The appraiser shall submit a detailed report to the Secretary.

(c) ADDITIONAL LANDS.—In addition to the national forest ski area, the Secretary may transfer by sale or exchange additional National Forest System lands for the purpose of adding such lands to and operating them as part of a ski area sold under subsection (a). The transfer of additional lands under this subsection shall be in accordance with this part and the laws generally applicable to the National Forest System.

(d) USE OF PROCEEDS BY THE APPROPRIATE SECRETARY.—The Secretary may retain 50 percent of the funds generated through sales under this section to acquire other high priority lands identified for acquisition in any forest land and resource management plan. The remaining 50 percent of such amount shall be deposited in the Treasury as miscellaneous receipts.

SEC. 9322. SKI AREA PERMIT FEES AND WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

The National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended by adding at the end the following new sections:

"SEC. 4. SKI AREA PERMIT FEES.

"(a) SKI AREA PERMIT FEE.—

"(1) IN GENERAL.—Except as provided by paragraph (2), after the date of the enactment of this section, the fee for all ski area permits on National Forest System lands shall be calculated, charged, and paid only as set forth in subsection (b).

"(2) EXCEPTION.—Paragraph (1) does not apply to any ski area where the existing permit in effect on the date of enactment of this section specifies a different method to calculate the fee. In any such situation the terms of such permit shall prevail, unless the permit holder notifies the Forest Service that the permit holder agrees to adopt the method of fee calculation specified in this section. The Forest Service should encourage such permit holders to consider adopting the new method of fee calculation in order to reduce its administrative costs.

"(b) METHOD OF CALCULATION.—

"(1) DETERMINATION OF ADJUSTED GROSS REVENUE SUBJECT TO FEE.—The Secretary of Agriculture shall calculate the ski area permit fee to be charged a ski area permittee by first determining the permittee's adjusted gross revenue to be subject to the permit fee. The permittee's adjusted gross revenue is equal to the sum of the following:

"(A) The permittee's gross revenues from alpine lift ticket and alpine season pass sales plus revenue from alpine ski school operations, with such total multiplied by the permittee's slope transport feet percentage on National Forest System lands.

"(B) The permittee's gross revenues from nordic ski use pass sales and nordic ski school operations, with such total multiplied by the permittee's percentage of nordic trails on National Forest System lands.

"(C) The permittee's gross revenues from ancillary facilities physically located on National Forest System lands, including all permittee or subpermittee lodging, food service, rental shops, parking, and other ancillary operations.

"(2) DETERMINATION OF SKI AREA PERMIT FEE.—The Secretary shall determine the ski area permit fee to be charged a ski area permittee by multiplying adjusted gross revenue determined under paragraph (1) for the permittee by the following percentages for each revenue bracket and adding the total for each revenue bracket:

"(A) 1.5 percent of all adjusted gross revenue below $3,000,000.

"(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000.

"(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000.

"(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

"(3) SLOPE TRANSPORT FEET PERCENTAGE.—In cases where ski areas are only partially located on National Forest System lands, the slope transport feet

percentage on national forest land referred to in paragraph (1) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992.

"(4) ANNUAL ADJUSTMENT OF ADJUSTED GROSS REVENUE.—In order to insure that the ski area permit fee set forth in this subsection remains fair and equitable to both the United States and ski area permittees, the Secretary shall adjust, on an annual basis, the adjusted gross revenue figures for each revenue bracket in subparagraphs (A) through (D) of paragraph (2) by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

"(c) MINIMUM FEE.—In cases where an area of National Forest System land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a), the permittee shall pay an annual minimum fee of $2 for each acre of National Forest System land under permit. Rental fees imposed under this subsection shall be paid at the time specified in subsection (d).

"(d) TIME FOR PAYMENT.—The fee set forth in subsection (b) shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual, or other schedule as determined appropriate by the Secretary in consultation with the permittee. It is the intention of Congress that unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the enactment of this section. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual fee calculations brackets and rates) to be utilized for fee calculation and submitted with the fee payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

"(e) DEFINITIONS.—To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms 'revenue' and 'sales' mean actual income from sales. Such terms do not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

"(f) EFFECTIVE DATE FOR FEES.—The ski area permit fees as provided under this section shall become effective on July 1, 1996, and cover receipts retroactive to July 1, 1995. If a ski area permittee has paid fees for the 12-month period ending on June 30, 1996, under the graduated rate fee system formula in effect prior to the date of the enactment of this section, such fees shall be credited toward the new ski area permit fee due for that period under this section.

"(g) REPORT ON FAIR MARKET VALUE.—No later than five years after the date of enactment of this section and every 10 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committees of Agriculture and Resources of the United States House of Representatives a report analyzing whether the ski area permit fee system legislated by this section is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

"(h) TRANSITION PERIOD.—Where the new fee provided for in this section results in an increase in permit fee greater than one percent of the permittee's adjusted gross revenue (as defined in subsection (b)(1)), the new fee shall be phased in over a three year period in a manner providing for increases of approximately equal increments.

"(i) APPLICABILITY OF NEPA TO REISSUANCE OF SKI AREA PERMITS.—The reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

"SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

"Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on, or after the date of the enactment of this section pursuant to the authority of the Act of March 4, 1915 (16 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et seq.), or section 3 of this Act are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing. Such withdrawal shall continue for the full term of the permit and any modi-

fication, reissuance, or renewal of the permit. Such withdrawal shall be canceled automatically upon expiration or other termination of the permit unless, at the request of the Secretary of Agriculture, the Secretary of the Interior determines to continue the withdrawal. Upon cancellation of the withdrawal, the land shall be automatically restored to all appropriation not otherwise restricted under the public land laws.".

PART 3—DOMESTIC LIVESTOCK GRAZING

SEC. 9331. APPLICABLE REGULATIONS.

(a) BLM LANDS.—Except as otherwise provided by this part, grazing of domestic livestock on lands administered by the Bureau of Land Management shall be in accordance with part 1780 and part 4100 of title 43, Code of Federal Regulations, as in effect on January 1, 1995.

(b) FOREST SERVICE LANDS.—Except as otherwise provided by this part, grazing of domestic livestock on lands administered by the Forest Service shall, to the extent possible, be in accordance with regulations, which the Secretary of Agriculture shall promulgate, which are substantially similar to the regulations referred to in subsection (a). Regulations promulgated under this subsection may differ from the regulations referred to in subsection (a) to the extent necessary to conform to the laws governing the National Forest System (other than this part).

(c) FEDERAL LANDS.—For the purposes of this part, the term "Federal lands" means lands administered by the Bureau of Land Management and lands administered by the Forest Service.

SEC. 9332. FEES AND CHARGES.

(a) BASIC FEE.—The basic fee for each animal unit month in a grazing fee year to be determined by the Bureau of Land Management and the Forest Service shall be equal to the 3-year average of the total gross value of production for beef cattle, as compiled by the Economic Research Service of the Department of Agriculture in accordance with subsection (b) on the basis of economic data published by the Service in the Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops & Livestock and Dairy for the 3 years preceding the grazing fee year, multiplied by the 10 year average of the United States Treasury Securities 6-month bill "new issue" rate and divided by 12.

(b) CRITERIA.—The Economic Research Service of the Department of Agriculture shall continue to compile the gross production value of production of beef cattle as reported in a dollar per bred cow basis in the "U.S. Cow-Calf Production Cash Costs and Returns".

(c) SURCHARGE.—

(1) IN GENERAL.—A surcharge shall be added to the grazing fee billings for authorized grazing of livestock owned by persons other than the permittee or lessee except where—

(A) such use is made by livestock owned by a spouse, child, or grandchild or their respective spouse of the permittee and lessee; or

(B) the permittee or lessee is unable to make full grazing use, as authorized by a grazing permit or lease, due to the infirmed condition or death of the permittee or lessee.

(2) TREATMENT AS ADDITIONAL FEE.—The surcharge shall be over and above any other fees that may be charged for using public land forage.

(3) PRIOR PAYMENT REQUIRED.—Surcharges shall be paid prior to grazing use.

(4) AMOUNT.—The surcharge for authorized pasturing of livestock owned by persons other than the permittee or lessee shall be equal to 25 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per AUM for the appropriate State as compiled by the National Agricultural Statistics Service.

(5) IN GENERAL.—The Bureau of Land Management and the Forest Service shall make a determination under subsection (a) based on the following information gathered by the National Agriculture Statistics Service of the Department of Agriculture with respect to the largest single grazing lease of each grazing operator (in terms of dollars):

(A) Whether the operator charged—

(i) per acre;

(ii) per head per month;

(iii) per pound of gain;

(iv) per hundredweight of gain; or

(v) by another measure, and the rate charged.

(B)(i) The estimated average pounds gained per season for the grazing lease.

(ii) The total dollar amount estimated to be realized from the grazing lease.

(iii) Grazing lease acreage.

(iv) The State and county where the grazing lease is located.

(C) The classes of livestock grazed.

(D) The term of the grazing lease.

(E)(i) Whether grazing lease payments are paid if no grazing occurred.

(ii) Whether the grazing lease contains a take or pay provision.

(F) Additional information on whether the following are provided by the landlord on a 5-year basis:

(i) Fencing maintenance.

(ii) Animal management and oversight.

(iii) Water maintenance.

(iv) Salt and minerals.

(v) Other service (specified).

(vi) No services.

(vii) Hunting.

(viii) Fishing.

(ix) Other (specified).

(x) None.

(6) PRIVATE NATIVE RANGELAND.—For the purpose of determining rates for grazing leases of private native rangeland, rates for irrigated pasture, crop aftermath, and dryland winter wheat shall be excluded.

SEC. 9333. ANIMAL UNIT MONTH.

(a) DEFINITION OF ANIMAL UNIT MONTH.—The term "animal unit month" means 1 month's use and occupancy of range by—

(1) 1 cow, bull, steer, heifer, horse, burro, or mule, 7 sheep, or 7 goats, each of which is 6 months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or grazing lease.

(b) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than 6 months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

SEC. 9334. TERM OF GRAZING PERMITS OR GRAZING LEASES.

A grazing permit or grazing lease shall be issued for a term of 15 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 15 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation.

SEC. 9335. CONFORMANCE WITH LAND USE PLAN.

Livestock grazing activities and management actions approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be—

(1) may include any such activities as are not clearly prohibited by a land use plan; and

(2) shall not require any consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to the studies supporting the land use plan.

SEC. 9336. EFFECTIVE DATE.

This part shall apply to grazing on Federal lands on and after the date of the enactment of this Act.

PART 4—REGIONAL DISPOSAL FACILITY OF SOUTHWESTERN LOW LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

SEC. 9341. CONVEYANCE OF PROPERTY.

(a) CONVEYANCE.—Upon the tendering of $500,000 on behalf of the State of California and the release of the United States by the State of California from any liability for claims relating to the property described in subsection (b), all right, title and interest of the United States in and to said lands and improvements thereon are conveyed to the Department of Health Services of the State of California: *Provided*, That the property shall revert to the United States if the property is not used as a low-level radioactive waste disposal facility.

(b) DESCRIPTION.—The lands conveyed are those depicted on a map designated USGS 7.5 minute quadrangle, west of Flattop Mtn, CA 1984, entitled "Location Map for Ward Valley Site", located in San Bernardino Meridian, Township 9 North, Range 19 East.

(c) TITLE.—The Secretary of the Interior shall issue evidence of title pursuant to this Act notwithstanding any other provision of law. The Southwestern Low-Level Radioactive Waste Disposal Compact's Ward Valley regional disposal facility and transfer of the land are in compliance with any applicable provisions of section 7 of Endangered Species Act of 1973 (16 U.S.C. 1536) and the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(d) DEPOSIT OF FUNDS.—Sums received pursuant to subsection (a) shall be deposited as miscellaneous receipts in the Treasury of the United States.

(e) EXPIRATION OF AUTHORITY.—This authority expires October 1, 2010.

SEC. 9342. CONVEYANCE OF EASEMENTS.

Concurrent with the conveyance property described in section 9341(b) to the Department of Health Services of the State of California, all necessary easements for utilities and ingress and egress to said lands described in section 9341(b) of this Act and the right to improve those easements, are also conveyed to the Department of Health Services of the State of California: *Provided*, That the Department of Health Services right-of-way easements revert to the United States if the lands referenced in section 9341 are not licensed and used as a low-level radioactive waste disposal facility.

Subtitle D—Territories

PART 1—COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

SEC. 9401. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE.

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1995.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94–241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1995.

(c) REMOVAL OF AUTHORITY TO OBLIGATE CERTAIN FUNDS.—Amounts appropriated under title VII of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and under sections 3 and 4 of Public Law 94–241 (48 U.S.C. 1681), which are not obligated as of the date of the enactment of this Act may not be obligated after such date.

(d) CONFORMING AMENDMENTS.—Section 5 of such Act (48 U.S.C. 1681 note) is amended—

(1) by striking out "agreement identified in section 3 of this Act" and inserting in lieu thereof "Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands"; and

(2) by striking out "Committee on Interior and Insular Affairs" and inserting in lieu thereof "Committee on Resources".

PART 2—TERRITORIAL ADMINISTRATIVE CESSATION ACT

SEC. 9421. SHORT TITLE.

This part may be cited as the "Territorial Administrative Cessation Act".

SEC. 9422. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) each of the four political subdivisions of the United Nations Trust Territory of the Pacific Islands, known as the Japanese Mandated Islands, have successfully entered into distinct self-governing entities, thereby culminating in the final termination of the Trusteeship and the end of the trusteeship responsibilities of the United States as administering authority of the Trust Territory on October 1, 1994;

(2) the United States territories have developed progressively increased local self-government over the past five decades;

(3) the territories predominantly deal directly with Federal agencies and departments, as a State would;

(4) the administering responsibilities of the Department of the Interior with respect to the insular areas has declined substantially during the past five decades; and

(5) Federal-territorial relations can be enhanced and Federal fiscal conditions improved by the elimination of unnecessary Federal bureaucracy.

SEC. 9423. ELIMINATION OF OFFICE OF TERRITORIAL AND INTERNATIONAL AFFAIRS.

(a) IN GENERAL.—The Office of Territorial and International Affairs of the Department of the Interior, established pursuant to the Order of the Secretary of the Interior 3046, of February 14, 1980, as amended, is hereby abolished.

(b) TERMINATION OF POSITION OF ASSISTANT SECRETARY.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of the Interior (6)" and inserting "Assistant Secretaries of the Interior (5)".

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall take effect on the first day of the first fiscal year that begins after the date of the enactment of this Act.

SEC. 9424. CERTAIN ACTIVITIES NOT FUNDED.

Amounts may not be made available for the following program activities for assistance to territories for fiscal years beginning after September 30, 1995, as identified under the appropriations account numbered 14–0412–0–1–808:

(1) technical assistance, item 00.12;

(2) maintenance assistance, item 00.14;

(3) disaster fund, item 00.17; and

(4) insular management controls, item 00.19.

Subtitle E—Minerals

PART 1—HARDROCK MINING

SEC. 9501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares that—

(1) a secure and reliable supply of locatable minerals is essential to the industrial base of the United States, national security, and balance of trade;

(2) many of the deposits of locatable minerals that may be commercially developed are on Federal lands as that term is defined in this Act, and are difficult and expensive to discover, mine, extract and process;

(3) the national need for locatable minerals will continue to expand, and without a strong mining industry the demand for the minerals will exceed domestic sources of supply;

(4) mining of locatable minerals is an extremely high-risk, capital-intensive endeavor, which, to attract necessary investment, requires certainty and predictability in access to Federal lands in establishment of mining titles, and in the rights of owners of mining claims or sites to develop minerals;

(5) the national interest is to foster and encourage private enterprise in the development of a domestic minerals industry to maintain and create high-paying jobs and the various Federal, State, and local taxes paid by the mining industry in the United States;

(6) changes in the general mining laws of the United States to provide more direct economic return to the United States and greater protection of public resources are desirable, so long as these changes do not act as a disincentive to development of minerals, adversely affect employment in the mining industry or in industries that provide goods and services required for mining activities, interfere with a secure and reliable domestic supply of minerals, or adversely affect the balance of trade of the United States; and

(7) mining claims, mill sites and tunnel sites located under the general mining laws are property interests, and any law or regulation that substantially impairs existing property rights may expose the Federal Government to takings claims under the fifth amendment to the United States Constitution.

(b) PURPOSE.—It is the purpose of this subtitle to—

(1) affirm and maintain the policy established in section 2 of the Mining and Minerals Policy Act of 1970;

(2) promote exploration for and the development of a secure and reliable domestic source of locatable minerals;

(3) provide for increased Federal revenue from the location and production of locatable minerals from Federal lands through patent payments and royalties; and

(4) recognize that unpatented mining claims, mill sites and tunnel sites are property rights in the fullest sense and avoid, to the greatest extent possible, claims of takings of existing property rights under the general mining laws that could require compensation under the fifth amendment to the United States Constitution.

SEC. 9502. PATENTS UNDER THE GENERAL MINING LAW.

(a) IN GENERAL.—Any patent issued by the United States under the general mining laws after the date of the enactment of this Act for any interest in land covered by a mining claim or site under such laws shall be issued only—

(1) upon payment by the owner of the mining claim or site of the fair market value for the interest in the land owned by the United States exclusive of, and without regard to, the mineral deposits in the land or the use of such land for mineral activities unless the requirements of subsection (b) are met, and

(2) subject to a reservation by the United States of the royalty provided in section 9503(a), unless the requirements in subsection (b) are met.

(b) PATENT TRANSITION.—(1) Subsection (a) shall not apply to any mining claim or site if—

(A) the claimant establishes that the claim or site constituted a valid mining claim as of the date of the enactment of this Act; and

(B) the claimant has filed a patent application or mineral survey application prior to the date of the enactment of this Act, or files such an application with the Bureau of Land Management before the date 2 years after the date of the enactment of this Act. A patent application or mineral survey application referred to in this subparagraph shall be deemed timely, notwithstanding that the application may be corrected or supplemented and resubmitted thereafter.

(2) During the 2-year period in paragraph (1)(B), or while there is pending a mineral survey or patent application to which this subsection applies, an owner of the mining claim or site may continue work on a mining claim or site directed toward establishment and confirmation of entitlement to a patent, and may amend the application as necessary.

(3) Where access to any mining claim or site has been denied or impeded by the action or inaction of any Federal official, agency, or court during all or part of the 5-year period preceding the date of enactment of this Act, including any mining claim or site within the area described in section 106 of Public Law 103–433, and the mining claim or site may require further exploration or development in order for the claimant to file a patent application or a mineral survey application and otherwise meet the requirements of paragraph (1), the claimant may, within 1 year after the date of enactment of this Act, submit a certified written statement to the Secretary describing the access denial or impediment, and shall then have a period of 10 years from the date of enactment of this Act or the termination of such access denial or impediment, whichever occurs first, to conduct such mineral exploration or development activities, file a patent application or mineral survey application, and otherwise meet the requirements of paragraph (1).

(c) PAYMENT PLAN.—(1) Any owner grossing less than $500,000 annually shall qualify for a payment plan. Upon completion of the patent process, the owner of the mining claim may purchase the surface estate under the following conditions:

(A) Payment to be amortized over 5 years with 5 equal annual payments, including principal and interest.

(B) Interest shall be calculated per annum at a rate of 2 percent over the "Treasury Current Value of Funds Rate" on the date of execution of the payment plan agreement.

(2) The purchaser shall be notified by certified mail after 60 days of delinquent payments and have 90 days from receipt of notification to correct the delinquency. Repossession shall be by and under the laws of repossession, foreclosure, and replevin of the State wherein the land is situated.

(d) REPEAL OF PATENTING MORATORIUM; PROCESSING OF PATENT APPLICATIONS.—Sections ____ and ____ of Public Law ____ are hereby repealed. The Secretary of the Interior shall diligently process all patent applications under the general mining laws pending on the date of enactment and shall make determinations for all such applications regarding patent issuance within 2 years.

SEC. 9503. ROYALTY UNDER THE GENERAL MINING LAW.

(a) IN GENERAL.—The production and sale of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 9502(b) applies) or any mining claim patented under section 9502(a) shall be subject to a royalty of 3.5 percent on the net proceeds from such production mined and sold from such claim.

(b) ROYALTY EXCLUSION.—(1) The royalty payable under this section shall be waived for any person or corporation with annual net proceeds from mineral production subject to subsection (a) of less than $50,000.

(2) Where mining operations subject to this section are conducted in 2 or more places by 1 person or corporation, the operations shall be considered a single operation the aggregate net proceeds from which shall be subject to the $50,000 limitation set forth in this subsection.

(3) No royalty shall be payable under this section with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(4) The obligation to pay royalties under this section shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(c) DEFINITIONS.—For the purposes of this subtitle:

(1) The term "net proceeds" means gross yield, less the sum of the following deductions for costs incurred prior to sale or value determination, and none other:

(A) The actual cost of extracting the locatable mineral.

(B) The actual cost of transporting the locatable mineral from the claim to the place or places of reduction, beneficiation, refining, and sale.

(C) The actual cost of crushing, processing, reduction, beneficiation, refining, and sale of the locatable mineral.

(D) The actual cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money.

(E) The actual cost of maintenance and repairs of—

(i) all machinery, equipment, apparatus, and facilities used in the mine;

(ii) all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and

(iii) all facilities and equipment for transportation.

(F) The actual cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting and mapping, computer services, surveying, housing, camp, and office expenses, safety, and security.

(G) The actual cost of engineering, sampling, and assaying pertaining to development and production.

(H) The actual cost of permitting, reclamation, environmental compliance and monitoring.

(I) The actual cost of fire and other insurance on the machinery, equipment, apparatus, works, plants, and facilities mentioned in subparagraph (E).

(J) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subparagraph (E). The annual depreciation charge shall consist of amortization of the original cost in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented

by the original cost must be considered in computing the depreciation charge.

(K) All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals.

(L) All money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and severance or other taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced.

(M) The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.

(2) The term "gross yield" shall having the following meaning:

(A) In the case of sales of gold and silver ore, concentrates or bullion, or the sales of other locatable minerals in the form of ore or concentrates, the term "gross yield" means the actual proceeds of sale of such ore, concentrates or bullion.

(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals), the term "gross yield" means the gross income from mining derived from the first commercially marketable product determined in the same manner as under section 613 of the Internal Revenue Code of 1986.

(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arms length transaction, the term "gross yield" means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:

(i) Published or other competitive selling prices of locatable minerals of like kind and grade.

(ii) Any proceeds of sale.

(iii) Value received in exchange for any thing or service.

(iv) The value of any locatable minerals in kind or used or consumed in a manufacturing process or in providing a service.

Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.

(3) The term "Secretary" means the Secretary of the Interior.

(d) LIMITATIONS AND ALLOCATIONS OF NET PROCEEDS, GROSS YIELD, AND ALLOWABLE COSTS.—(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in—

(A) the working of the mine;

(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;

(C) the operating of the facilities or equipment for transportation; or

(D) superintending the management of any of those operations described in subparagraphs (A) through (C).

(2) Ores or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims and lands other than mining claims and ore or solutions of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—

(A) the operator shall first sample, weigh or measure, and assay the same in accordance with accepted industry standards; and

(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.

(e) LIABILITY FOR ROYALTY PAYMENTS.—The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for such royalty to the extent of the interest in such claim owned. As used in this subsection, the terms "owner" and "co-owner" mean the person or persons owning the right to mine locatable minerals from such claim and receiving the net proceeds of such sale. No person who makes any royalty payment attributable to the interest of the owner or

co-owners liable therefor shall become liable to the United States for such royalty as a result of making such payment on behalf of such owner or co-owners.

(f) TIME AND MANNER OF PAYMENT.—(1) Royalty payments for production from any mining claim subject to the royalty payable under this section shall be due to the United States at the end of the month following the end of the calendar quarter in which the net proceeds from the sale of such production are received by the owner or co-owners. Royalty payments may be made based upon good faith estimates of the gross yield, net proceeds and the quantity of ore, concentrates, or other beneficiated or fabricated products of locatable minerals, subject to adjustment when the actual annual gross yield, net proceeds and quantity are determined by the owner of the mining claim or site or co-owners.

(2) Each royalty payment or adjustment shall be accompanied by a statement containing each of the following:

(A) The name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment.

(B) The estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period.

(C) The estimated (or actual, if determined) gross yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period.

(D) The estimated (or actual, if determined) net proceeds from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in subsection (c)(1).

(E) The estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(3) In lieu of receiving a refund under subsection (h), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Act, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(g) RECORDKEEPING AND REPORTING REQUIREMENTS.—(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty under this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required by this subsection shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (i) expires.

(h) INTEREST ASSESSMENTS.—(1) If royalty payments under this section are not received by the Secretary on the date that such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this subsection shall be computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate." In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged with respect to royalties under this section.

(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together

with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(i) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.

(j) TRANSITIONAL RULES.—Any mining claim for which a patent is issued pursuant to section 9502(b) shall not be subject to the obligation to pay the royalty pursuant to this section. Royalty payments for any claim processed under section 9502(b) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 9502(b), royalties shall be payable under this section on production after the date of enactment of this Act, plus interest computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate" on production after such date of enactment and before the date of such determination.

(k) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) Two-thirds of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

(2) One-third of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production occurred is located.

(l) NO IMPLIED COVENANTS.—The owner of a mining claim subject to the provisions of this title shall have no obligation, express or implied, to explore for, develop, produce or market locatable minerals as a result of the obligation to pay a royalty hereunder, and the timing, nature, extent and manner of exploring, developing, mining and marketing such locatable minerals shall be in the sole discretion of the claim owner.

SEC. 9504. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Add the following new subsection at the end thereof:

"(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

"(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.".

(b) IDENTIFIED DEPOSITS.—In order to assure that the Secretary has the authority to provide for the development of mineral materials which, in order to justify the investment necessary for the development of the appropriate mine, quarry or other workings and related facilities, may require longer and more secure tenure than is provided by sales contracts under the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602), and in order to provide flexibility with regard to the man-

ner of disposition of mineral materials section 2 of such Act is amended by adding at the end the following:

"(b) IDENTIFIED DEPOSITS.—(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease under this section shall also be subject to disposition by lease under this Act by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.

"(2) All leases will be conditioned upon—

"(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and

"(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.

"(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods.

"(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

"(C) The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

"(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.

"(c) OTHER LANDS.—(1) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.

"(2) The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

"(3) Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior.".

(d) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), as amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(e) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by striking "common varieties of" in the first sentence.

(f) SHORT TITLES.—

(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

"SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'.".

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

"SEC. 5. This Act may be cited as the 'Materials Act of 1947'.".

(g) REPEALS.—(1) Subject to valid existing rights, the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161), commonly known as the Building Stone Act, is hereby repealed.

(2) Subject to valid existing rights, the Act of January 31, 1901 (30 U.S.C. 162), commonly known as the Saline Placer Act, is hereby repealed.

(h) AUTHORIZATION FOR DISPOSAL OF MINERAL MATERIALS BY CONTRACT.—Section 2(a) of the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602(a)), is amended—

(1) by striking the period at the end of paragraph (3) and inserting "or, if"; and

(2) by adding after paragraph (3) the following:

"(4) the material is a mineral material.".

(i) SODIUM.—Section 24 of the Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after "2 per centum" in each place it appears the following: "and not greater than five and one-half per centum". Any rate under section 24 of the Mineral Leasing Act (30 U.S.C. 181) in excess of five and one-half per centum shall not be allowed unless the following conditions are met:

(1) the Secretary, in consultation with the Secretary of Commerce and the United States Trade Representative, finds that any increase in the royalty rate for sodium will not have an adverse effect on the export of domestically produced soda ash;

(2) the Secretary reports this finding of no "adverse effect" to Congress and recommends an additional proposed royalty rate increase; and

(3) the Congress, within 360 days, approves the Secretary's recommendation.

The Secretary shall, within 90 days, offer for competitive bid all tracts for which there are applications pending on sodium leases.

SEC. 9505. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEES.—

(1) ANNUAL MAINTENANCE FEE.—After the date of enactment of this Act, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Act, shall pay to the Secretary in advance on or before September 1 of each year, until a patent has been issued therefor, an annual maintenance fee per mining claim or site.

(2) INITIAL MAINTENANCE FEE.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), the location fee required under subsection (i) of this section, in lieu of the annual maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site.

(3) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the annual maintenance fee requirements of paragraph (1) for the assessment year following the filing of the certification.

(4) AMOUNT OF ANNUAL MAINTENANCE FEE.—For each assessment year the annual maintenance fee payable under paragraph (1) for a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.

TABLE 1

Assessment Year	Amount of Fee Per Site or Claim
1 through 3	$100 per year
4 through 5	$150 per year
6 through 10	$200 per year

TABLE 1—Continued

Assessment Year	Amount of Fee Per Site or Claim
11 through 15	$300 per year
16 and thereafter	$500 per year

For purposes of applying Table 1 in the case of claims filed before the enactment of this Act, the portion of the assessment year in which this Act is enacted shall be treated as the first assessment year.

(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the maintenance fee has not been paid and no person who is a related person of any such owner or co-owner may relocate a new claim on any part of lands located within the forfeited claim for a period of 18 months after the date of forfeiture.

(6) DEPOSIT OF FEES.—The full amount of all fees paid under this subsection shall be deposited in the General Fund of the Treasury.

(b) ANNUAL LABOR.—(1) Amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis towards up to 75 percent of the annual maintenance fee payable under this section for the following assessment year.

(2) Subject to the 75 percent limit set forth in paragraph (1), the excess of amounts expended for annual labor performed in any one year over such 75 percent limit may be applied to the maintenance fee due in subsequent years for a period of up to three years.

(3) In order to receive credit under this subsection for annual labor work or excess annual labor, the description and value of the work must be included in the statement required in subsection (e) and the statement must be timely filed.

(4) Annual labor performed on an individual mining claim or site within a group of contiguous claims may be credited towards the aggregate amount of maintenance fees due on all of the contiguous claims within that group.

(c) WORK QUALIFYING AS ANNUAL LABOR.—(1) Only work which directly benefits or develops a mining claim or facilitates the extraction of ore qualifies as annual labor. Acceptable labor and improvements include any of the following:

(A) Drilling or excavating, including ore extraction.

(B) Mining costs directly associated with the production of ore.

(C) Prospecting work which benefits the location or a contiguous location.

(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling ponds and dams.

(E) Bringing in water for direct mining or milling purposes.

(F) Clearing of brush, timber, debris, or overburden where necessary to facilitate the extraction or processing of minerals.

(G) Construction of trails, roads, or landing strips providing access to claims.

(H) Construction costs of worker housing, mills, and equipment storage buildings where reasonably necessary for the development of the location.

(I) Reasonable value of the use of equipment for prospecting, mining, or development purposes on the location.

(J) Repairs of equipment used for prospecting, sampling, or production of minerals provided that such equipment has been on site during the assessment year.

(K) Cost of moving workers, materials, and equipment among contiguous locations.

(L) Watchman services of a bona fide employed watchman on the property where reasonably necessary to protect mining equipment of substantial value.

(M) Activities covered under section 1 of the Act of September 2, 1958 (30 U.S.C. 28–1), as amended.

(N) Reclamation conducted pursuant to State or Federal surface management regulations.

(O) Other activities which the Secretary may determine qualify as annual labor.

(2) The following activities do not qualify as annual labor:

(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing corner posts and location notices.

(B) Transportation of workers to or from the location.

(C) Prospecting or exploration work not conducted within the location or a contiguous location.

(d) AMENDMENTS OF PUBLIC LAW 85–876.—The Act of September 2, 1958 (Public Law 85–876; 30 U.S.C. 28–1), is amended as follows:

(1) Section 1 is amended by inserting "mineral activities, environmental baseline monitoring, and" after "without being limited to" and before "geological, geochemical and geophysical surveys" and by striking "Such" at the beginning of the last sentence and inserting "Airborne".

(2) Section 2(d) is amended by inserting "environmental baseline monitoring or" after "experience to conduct" and before "geological, geochemical or geophysical surveys".

(3) Section 2 is amended by adding at the end of the following new subsection at the end thereof:

"(e) The term 'environmental baseline monitoring' means activities for collecting, reviewing and analyzing information concerning soil, vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).".

(e) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(f) ANNUAL LABOR REPORT.—When the value of annual labor is credited towards part or all of the maintenance fee, subject to the 75-percent limit set forth in subsection (b)(1), the following shall apply:

(1) The maintenance fee statement required in subsection (e) must also state the dates of performance of the labor, describe the character and total value of the improvements made or the labor performed, the amount of labor used as a credit toward the maintenance fee for the current year, and the value of excess labor performed in previous years which is to be applied to the maintenance fee for the current year.

(2) Documentation which reasonably supports the activities or improvements claimed must accompany the maintenance fee statement. Such documentation may include, but is not limited to, copies of maps showing sample locations, drill locations, or survey data; environmental baseline data; reports on geology, geochemistry, or geophysics by qualified experts; drill results; or engineering reports by qualified engineers.

(3) All supporting material filed pursuant to paragraph (2) shall remain confidential in accordance with section 552 of title 5 of the United States Code as long as the location is maintained and for a period of one year after the location is abandoned, after which all data filed shall be considered public information.

(g) EFFECT OF COMPLIANCE AS AGAINST SUBSEQUENT LOCATORS.—(1) Except as provided in paragraph (2), after the date of enactment of this Act, compliance with the requirements of this section shall, from the time the location notice or certificate is posted on the land under applicable State law, confer upon the owner of any unpatented mining claim or site, whether located before or after the date of enactment of this Act, an exclusive right of possession, as against subsequent locators, of the land included in such mining claim or site under the general mining laws. If more than one mining claim or site owned or controlled by the same claim or site owner covers substantially the same land, by reason of the location of one or more mining claims or sites on such land, the amendment or relocation of any such mining claim or site, or otherwise, such exclusive right of possession shall extend to all such mining claims or sites, effective from the time the location notice or certificate for the initial mining claim or site was posted on such land under applicable State law. The order of location, amendment, or relocation of any such mining claims or sites on such land shall not affect the validity of any such mining claim or site. Such owner of the mining claim or site shall not be required to be in actual, physical occupation of such land and shall not be required to exclude rival locators from such land. Such exclusive right of possession shall be subject to applicable Federal law, including the Multiple Mineral Development Act of 1954 (30 U.S.C. 521–31), the Materials Act of 1947 (30 U.S.C. 601–604) and the Surface Resources Act of 1955 (30 U.S.C. 611–15) to the extent applicable, and shall neither enlarge nor diminish any rights of such owner of the mining claim or site as against the United States in such land. This paragraph shall supersede the common law doctrine of pedis possessio.

(2) Conflicts over the right of exclusive possession of land included in any mining claim or site shall be determined in proceedings between owners of mining

claims or sites under the provisions of section 910 of the Revised Statutes (30 U.S.C. 53) and other applicable law, including but not limited to each of the following:

(A) Any conflict based upon circumstances existing as of the date of enactment of this Act between mining claims or sites located before the date of enactment of this Act, shall be resolved under the law in effect on the day prior to the date of enactment of this Act, including the common law doctrine of pedis possessio.

(B) Any conflict arising on or after the date of enactment of this Act between mining claims or sites located before, on or after the date of enactment over whether either owner of the mining claim or site has complied with the requirements of this section, shall be resolved under this Act.

(h) FAILURE OF CO-OWNER TO CONTRIBUTE.—Upon the failure of any one or more of several co-owners of any mining claim or site to contribute such co-owner or owners' portion of any location or maintenance fee payable under this section, any co-owner who has paid such fee may, after the payment due date, serve the delinquent co-owner or owners with notice of such failure in writing or, if such delinquent co-owner or owners cannot be located after reasonable efforts, by publication in a general circulation newspaper published in a location nearest the mining claim or site at least once a week for at least 90 days. If at the expiration of 90 days after such notice in writing or by publication, any delinquent co-owner fails or refuses to contribute the owed portion, such co-owner or owners' interest shall become the property of the owner or co-owners who have paid the required fee.

(i) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per mining claim or site. The full amount of all fees paid under this subsection shall be deposited in the General Fund of the Treasury. Effective on the date of the enactment of this Act, section 10102 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) is repealed.

(j) CREDIT AGAINST MAINTENANCE FEE.—(1) Except as provided in paragraph (2), the annual maintenance fee payable for any unpatented mining claim or site for any assessment year shall be reduced by the amount of royalty paid by such claimholder for such mining claim or site, or for any contiguous mining claim or site, during the prior assessment year.

(2) Royalties paid during any assessment year prior to the first full assessment year commencing after the enactment of this Act shall not reduce the amount of any maintenance fee.

(k) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEE UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under paragraph 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).

(l) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay any claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due, except that if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(m) AMENDMENT OF FLPMA FILING REQUIREMENTS.—(1) Section 314(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)) is hereby repealed.

(2) Section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) is amended to read as follows:

"(c) FAILURE TO FILE AS CONSTITUTING FORFEITURE; DEFECTIVE OR UNTIMELY FILING.—The failure to timely file the copy of the notice or certificate of location as required by subsection (b) shall constitute forfeiture of the mining claim and such claim shall be null and void by operation of law; except that it shall not be considered a failure to file if the notice or certificate of location is defective or not timely filed for record under other State or Federal laws permitting or requiring the filing or recording thereof, or if the copy of the notice or certificate is filed by or on behalf of some but not all of the owners of the claim.".

(n) RELATED PERSONS.—As used in this section, the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(o) REPEAL.—Section 10101 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) is repealed, effective with respect to assessment year commencing after the enactment of this Act.

(p) PERIODIC REVIEW OF FEE STRUCTURE.—Beginning in the year 2005 and at 10 year intervals thereafter, the Secretary shall review the costs incurred by the Secretary to administer mining claims for locatable minerals under the general mining laws and the structure and level of maintenance and location fees received by the Secretary with respect to such claims. The Secretary shall determine if the revenues from such fees is adequate to cover such costs, taking inflation and other appropriate factors into account. The Secretary shall submit the results of each such review to the Congress, together with such legislative recommendations as the Secretary deems appropriate.

PART 2—FEDERAL OIL AND GAS ROYALTIES

SEC. 9511. SHORT TITLE.

This part may be cited as the "Federal Oil and Gas Royalty Simplification and Fairness Act of 1995".

SEC. 9512. DEFINITIONS.

(a) IN GENERAL.—Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States, an Indian tribe, or an Indian allottee issues a lease or any person to whom operating rights have been assigned;"; and

(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

"(18) 'administrative proceeding' means any agency process in which a demand, decision or order issued by the Secretary is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

"(B) with respect to a demand, the receipt by the Secretary or a lessee of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'demand' means—

"(A) an order to pay issued by the Secretary; or

"(B) a separate written request by a lessee which asserts an obligation due the lessee,

but does not mean any royalty or production report, or any information contained therein, required by the Secretary;

"(23) 'obligation' means—

"(A) any duty of the Secretary or the United States—

"(i) to take oil or gas royalty in kind; or

"(ii) to pay, refund, offset, or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest;

"(B) any duty of a lessee—

"(i) to deliver oil or gas royalty in kind; or

"(ii) to pay, offset or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(24) 'order to pay' means a written order issued by the Secretary or the United States which—

"(A) asserts a definite and quantified obligation; and

"(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication or action by or on behalf of the Secretary or the United States;

"(25) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(26) 'payment' means satisfaction, in whole or in part, of an obligation;

"(27) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(28) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

"(29) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties under this Act from such lease; and

"(30) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation.".

(b) LESSEE LIABILITY.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(a) A lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary. A lessee may designate a person to act on the lessee's behalf and shall notify the Secretary in writing of such designation. The person to whom the United States issues a lease or the person by whom operating rights are currently owned, but not both, shall remain primarily liable for its obligations.".

SEC. 9513. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.

"(a) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred, except as otherwise provided by this section.

"(b) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce the royalty obligation for a production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(3) ROYALTY PAYMENT.—The right to collect a royalty payment for an obligation for a production month for a lease is fixed for purposes of this Act on the last day of the second calendar month following the month in which gas is produced, to be phased in by the Secretary in a manner which does not have a negative impact on the Federal budget.

"(c) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (a) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or the United States, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—The issuance of a subpoena in accordance with the provisions of section 107(c) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (A) the lessee has produced such subpoenaed records for the subject obligation, (B) the Secretary receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (C) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(3) FRAUD OR CONCEALMENT.—Any fraud or concealment by a lessee in an attempt to defeat or evade an obligation in which case the limitation period shall be tolled for the period of such fraud or such concealment.

"(4) TOLLING REQUEST.—A written tolling request from a lessee based upon the lessee's representation that the lessee's entitlement to an overpayment has not been finally determined. The limitation period shall be tolled pursuant to this paragraph from the date the Secretary receives the tolling request until the earlier of the end of the requested period or 12 months after the date the Secretary receives the tolling request, but is subject to successive 12-month renewals by the lessee made prior to the expiration of the then applicable 12-month period. The tolling request shall be sufficient if it identifies—

"(A) the person who made the potential overpayment;

"(B) the leases and production months involved in the potential overpayment; and

"(C) the reasons the lessee believes that it may later be entitled to a refund of the overpayment.

"(5) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—The issuance of a notice under section 107(d)(4) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending on the date on which (A) the Secretary receives written notice the accounting or otherrequirement has been performed, or (B) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

"(d) TERMINATION OF LIMITATIONS PERIOD.—The limitations period shall be terminated in the event—

"(1) the Secretary has notified the lessee in writing that a time period is closed to further audit; or

"(2) the Secretary and a lessee have so agreed in writing.

"(e) FINAL AGENCY ACTION.—

"(1) 3-YEAR PERIOD.—The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, within three years from the date such proceeding was initiated or three years from the date of such enactment, whichever is later. The three-year period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—

"(A) IN GENERAL.—If no such decision has been issued by the Secretary within the three-year period referred to in paragraph (1)—

"(i) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

"(ii) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

"(B) NO PRECEDENTIAL EFFECT ON OTHER PROCEEDINGS.—Deemed decisions under subparagraph (A) shall have no precedential effect in any judicial or administrative proceeding or for any other purpose.

"(f) ADMINISTRATIVE SETTLEMENT.—During the pendency of any administrative proceeding, the parties shall hold at least one settlement consultation for the purpose of discussing disputed matters between the parties. For purposes of settlement,

the Secretary may take such action as is appropriate to compromise and settle a disputed obligation, including interest and allowing offsetting of obligations among leases. The Secretary and the State concerned shall seek to resolve disputes with a lessee in as expeditious a manner as possible, through settlement negotiations and other alternative dispute resolution processes methods. If any dispute involving an obligation due is not resolved by the end of the six-year period beginning on the date the obligation became due, the amount of interest otherwise payable with respect to the obligation shall accrue after such six-year period at the rate—

"(1) for purposes of section 111(h), reduced each year thereafter by two additional percentage points from the rate in effect under this subsection for the previous year (but not less than zero); and

"(2) for purposes of section 111(a), reduced each year thereafter by one additional percentage point from the rate in effect under this subsection for the previous year (but not less than zero).

"(g) LIMITATION ON CERTAIN ACTIONS.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under this section—

"(1) no other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation may be taken; and

"(2) no other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation may be pursued.

"(h) JUDICIAL REVIEW.—In the event a demand subject to this section is timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

"(i) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(j) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary to pay an assessment shall be entitled to a stay without bond or other surety instrument.

"(k) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.".

(b) SUBPOENA.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717) is amended by adding at the end the following:

"(c) RULES REGARDING ISSUANCE OF SUBPOENA RELATING TO REPORTING AND PAYMENT OF AN OBLIGATION DUE.—

"(1) IN GENERAL.—A subpoena which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued under this section only by an Assistant Secretary of the Interior and an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

"(2) PRIOR WRITTEN REQUEST REQUIRED.—A subpoena described in paragraph (1) may only be issued against a lessee during the limitation period provided in section 115 and only after the Secretary has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

"(A) the lessee has failed to respond within a reasonable period of time to the Secretary's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act;

"(B) the lessee has in writing denied the Secretary's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act; or

"(C) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act after the Secretary's written request.

"(3) REASONABLE PERIOD FOR COMPLIANCE WITH WRITTEN REQUEST.—In seeking records, the Secretary shall afford the lessee a reasonable period of time after a written request by the Secretary in which to provide such records prior to the issuance of any subpoena.".

(c) RESTRUCTURED ACCOUNTING.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717), as amended by subsection (b) of this section, is amended by adding at the end the following:

"(d) RESTRUCTURED ACCOUNTING.—

"(1) IN GENERAL.—The Secretary shall issue an order to perform a restructured accounting when the Secretary determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

"(2) DELEGATION.—The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management'. An order to perform a restructured accounting shall—

"(A) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(B) specify the reasons and factual bases for such order; and

"(C) be specifically identified as an 'order to perform a restructured accounting'.

"(3) ORDER TO PERFORM.—An order to perform a restructured accounting shall not include any other communication or action by or on behalf of the Secretary or the United States.

"(4) NOTICE.—If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.".

(d) STATE SUITS.—Section 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1751) is amended by adding at the end the following:

"(d) With respect to an obligation, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

"Sec. 115. Limitation periods and agency actions.".

SEC. 9514. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS.—

"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary of an adjustment.

"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee on whom the Secretary determines that subparagraph (A) would impose a hardship, the Secretary shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary and subject to the provisions of this Act.

"(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 9515. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

"(c) Records required by the Secretary for the purpose of determining compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under section 115(a). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain

or produce any record relating to an obligation for any time period which is barred by the applicable limitation in section 115.".

SEC. 9516. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

"(f) Upon a determination that it will further the effective and efficient performance of his duties and responsibilities, the Secretary may waive or forego such interest in whole or in part. Interest shall be charged under this section only for the number of days a payment is late.".

(b) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and the Secretary shall pay or credit such interest on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986. Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(c) LIMITATION ON INTEREST.—Section 111 of such Act, as amended by subsection (b) of this Act, is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations as a result of judicial or administrative proceedings for settlement agreements and for other similar payments) for the aggregate of all of its Federal leases exceeds 25 percent of the total royalties paid that month for those leases.".

(d) ESTIMATED PAYMENT.—Section 111 of such Act, as amended by subsections (b) and (c) of this Act, is further amended by adding at the end the following:

"(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due to the Secretary for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties become due at the end of the month following the period covered by the estimated payment. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".

(e) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of such Act (30 U.S.C. 1721), as amended by subsections (b) through (d) of this Act, is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee of a lease in any other unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee of a lease that is not contained in a unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

(f) PRODUCTION ALLOCATION.—Section 111 of such Act (30 U.S.C. 1721), as amended by subsections (b) through (e) of this Act, is amended by adding at the end the following:

"(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

SEC. 9517. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 9516, is further amended by adding at the end the following:

"(m)(1) After the date of enactment of this subsection, the Secretary shall not impose any assessment for any late payment or underpayment. After the date of enactment of this subsection, the Secretary may impose an assessment only for erroneous reports submitted by lessees subject to the limitations of paragraph (2). Nothing in this section shall prohibit the Secretary from imposing penalties or interest under other sections of this Act for late payments or underpayments.

"(2) No assessment for erroneous reports shall be imposed for 18 months following the date of enactment of this subsection, or until the Secretary issues a final rule which provides for imposition of an assessment only on a lessee who chronically submits erroneous reports and which establishes what constitutes chronic errors for a lessee, whichever is later. However, if the Secretary determines during that 18-month period that the reporting error rate for all reporters for all Federal leases has increased by one-third for three consecutive report months for either production reporting or royalty reporting over the 12 months preceding the date of enactment of this subsection, the Secretary may impose an assessment for erroneous reports only for the increased category of report under regulations in effect on the date of enactment of this subsection.".

SEC. 9518. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 9513 of this Act, is further amended by adding at the end the following:

"SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) SELLING THE REVENUE STREAM.—

"(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, upon request of the lessee or a State under section 205(g), the Secretary shall authorize a lessee for a marginal property and for a lease, the administration of which is not cost-effective for the Secretary to administer, to make a prepayment in lieu of royalty payments under the lease for the remainder of the lease term. For the purposes of this section, the term 'marginal property' has the same meaning given such term in section 111(k)(4), unless the Secretary, together with each State in which such marginal production occurs, determines that a different definition of marginal property better achieves the purpose of this section.

"(2) MARGINAL PROPERTIES.—For marginal properties, prepayments under paragraph (1) shall begin—

"(A) in the case of those properties producing on average $500 or less per month in total royalties to the United States, two years after the date of the enactment of this section;

"(B) in the case of those properties producing on average more than $500 but $1,000 or less per month in total royalties to the United States, three years after the date of the enactment of this section;

"(C) in the case of those properties producing on average more than $1,000 but $1,500 or less per month in total royalties to the United States, four years after the date of the enactment of this section; and

"(D) in the case of those properties not described in subparagraphs (A) through (C), five years after the date of the enactment of this section.

"(3) ADMINISTRATION NOT COST-EFFECTIVE.—For a lease, the administration of which is not cost-effective for the Secretary to administer, prepayments under paragraph (1) shall begin on the date of the enactment of this section.

"(4) SATISFACTION OF ROYALTY OBLIGATION.—A lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on production from the lease or a portion of a lease and shall not be required to submit any royalty reports to the Secretary. The prepayment shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(5) VALUATION.—The prepayment authorized under this section shall only occur if the Secretary, the State concerned, and the lessee determine that such prepayment is based on the present value of the projected remaining royalties from the production from the lease, based on appropriate nominal discount rate for a comparable term. Prior to accepting such prepayment, the Secretary and State concerned shall agree that such prepayment is in the best interest of the United States and the State concerned.

"(b) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, for the marginal properties referenced in subsection (a)(1), the Secretary shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop such properties: *Provided*, That such relief will only be available to lessees in a State that concurs. Prior to granting such relief, the Secretary and the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and the State concerned.

"(2) PAYMENT DATE.—For leases subject to this section, the Secretary may allow royalties to be paid later than the time specified in the lease.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Alternatives for marginal properties.".

SEC. 9519. ROYALTY IN KIND.

(a) IN GENERAL.—

(1) OCS.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) is amended by adding at the end the following:

"Any royalty or net profit share of oil or gas accruing to the United States under any such lease, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) upon prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the

oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.''.

(2) ONSHORE.—Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by adding at the end the following undesignated paragraph:

''Notwithstanding the provisions of the previous paragraph, any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) after prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.''.

(b) SALE.—Sections 27(b)(1) and (c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) are each amended by striking ''competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value'' and inserting ''competitive bidding or private sale''.

SEC. 9520. ROYALTY SIMPLIFICATION AND COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

(a) IN GENERAL.—Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) is amended by adding at the end the following:

''(d)(1) For the purpose of reducing costs and increasing net royalties to the United States and the States, the Secretary, in consultation with States concerned, shall, within one year after the date of the enactment of this subsection, streamline and simplify current royalty management requirements and practices, including royalty reporting, instructions, audits and collections. This streamlining and simplification shall specifically include—

''(A) elimination of all unnecessary royalty and production reports;

''(B) modification and simplification of remaining reports and associated instructions to eliminate redundant or unnecessary reports and information that are provided or can be obtained from other required reports, forms, computer databases or government agencies;

''(C) elimination or modifications of accounting, reporting, audit and collection requirements that are not cost-effective, particularly those associated with de minimis monetary amounts;

''(D) implementation of specific recommendations and comments contained in Secretarial sponsored teams, rulemakings, and studies or those participated in by the Secretary to the extent these recommendations simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes;

''(E) recommendations and comments submitted by interested parties to the extent these recommendations and comments simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes.

''(2) The Secretary shall submit to the Congress a progress report on the implementation of this section within six months from date of enactment of this Act, and a final report within 12 months from date of enactment of this Act. These reports shall include—

''(A) a description of the extent to which the Secretary has implemented the requirements in paragraph (1), including a list of specific initiatives implemented;

''(B) a list and description of additional initiatives identified by the Secretary to simplify and streamline royalty management requirements and practices; and

''(C) cost savings of implemented initiatives including impact on net-receipts sharing for States.

''(3) If the Secretary and the State concerned determines that the cost of accounting and auditing for and collecting of any obligation due for any oil and gas production exceeds the amount of the obligation to be collected, the Secretary shall waive such obligation.

"(4) The Secretary and the State concerned shall not perform accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting the activity exceeds the expected amount to be collected by the activity.

"(5) The Secretary and the State concerned shall develop a reporting and audit strategy which eliminates multiple or redundant reporting of information.".

(b) PAPERWORK REDUCTION.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717), as amended by section 9513(b) and (c), is amended by adding at the end the following:

"(e) PAPERWORK REDUCTION.—Administrative actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall be subject to section 3518(c)(1)(B) of title 44, United States Code.".

SEC. 9521. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 9522. DELEGATION TO STATES.

(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(a)) is amended to read as follows:

"(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, such production and royalty accounting duties and responsibilities as the Secretary determines are legally delegable, all audit coverage, and investigations to any State with respect to all Federal lands within the State.".

(b) STANDARDIZED REPORTING.—Section 205(b) of such Act (30 U.S.C. 1735(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the comma at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following:

"(4) the State agrees to adopt Federal standardized reporting for Federal royalty accounting and collection purposes,".

(c) COST EFFECTIVE COLLECTION OF DE MINIMIS ROYALTY AMOUNTS.—Section 205 of such Act (30 U.S.C. 1735) is amended by adding at the end the following:

"(g) Upon written request of any State, the Secretary is authorized to delegate for any year the responsibility to collect royalties from all Federal leases within the State if the average amount per year of mineral revenues received by the State on all such leases under all Federal mineral leasing laws for the previous five years is less than $100,000. The State may also request that the Secretary sell the revenue stream from all or part of the Federal leases within the State in accordance with section 116 of the Federal Oil and Gas Royalty Management Act of 1982, as added by section 9518 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995.".

SEC. 9523. PERFORMANCE STANDARD.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended in subsections (c) and (d), by striking "knowingly or willfully" and inserting "by willful misconduct or gross negligence" each place it appears.

SEC. 9524. INDIAN LANDS.

The amendments made by this part shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 9525. PRIVATE LANDS.

This part shall not apply to any privately owned minerals.

SEC. 9526. EFFECTIVE DATE.

Except as provided by section 115(e), section 111(h), section 111(k)(5), and section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this part), this part, and the amendments made by this part, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

Subtitle F—Indian Gaming and Health

PART 1—INDIAN GAMING

SEC. 9601. INDIAN GAMING.

(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) is amended by striking out "$1,500,000" each place it appears and inserting in lieu thereof "$2,500,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2718(a)) is amended by striking out all after "(a)" and inserting in lieu thereof the following: "Notwithstanding the provisions of section 18, no funds may be authorized to be appropriated for the operation of the Commission.".

PART 2—INDIAN HEALTH: MEDICAID

SEC. 9611. HEALTH CARE FACILITIES.

(a) TREATMENT OF PAYMENTS.—Section 402 of the Indian Health Care Improvement Act (25 U.S.C. 1642) is amended—

(1) in the first sentence of subsection (a), by inserting ", Indian Tribe, tribal organization, or urban Indian organization" after "Service" each place it appears; and

(2) in the second sentence of subsection (a), by inserting ", Indian Tribe, tribal organization, or urban Indian organization" after "facilities of the Service".

(b) ELIGIBILITY FOR REIMBURSEMENT.—Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended in subsection (a), by inserting ", Indian Tribe, tribal organization, or urban Indian organization" after "Indian Health Service".

SEC. 9612. PROVIDER REIMBURSEMENT.

Section 402 of the Indian Health Care Improvement Act (25 U.S.C. 1642) is amended by adding the following new subsections:

"(c) Notwithstanding any other provision of law, a health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization, that is eligible for reimbursement for medical assistance under title XIX of the Social Security Act shall be eligible to participate in, and receive reimbursement for medical assistance provided to individuals served under any State plan authorized under any law which succeeds such title XIX on the same basis as any other health care provider in the State in which the health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization is operated.

"(d) Nothing in this section, or any other law, shall prevent an Indian eligible for services through an Indian health program from participating in any State plan authorized under any law which succeeds such title XIX.

"(e) Nothing in this section, or any other law, shall authorize a State to deny or limit payments to any provider for medical assistance for items or services to Indians.

"(f) Any State that authorizes a health plan under any law which succeeds such title XIX or applies for a waiver under section 1115 of title XIX of the Social Security Act shall consult with the Indian tribes located within the State in the development of the health plan's standards.".

SEC. 9613. STUDY.

The Secretary of Health and Human Services shall conduct a comprehensive study of the number of Indians eligible to receive services under title XIX of the Social Security Act, the number of Indians actually receiving such services, and the effect upon Indians of eliminating the entitlement status of title XIX and transferring funding under that title to the States, and shall provide recommendations for the improvement of such services to eligible Indians. The Secretary shall submit the report to Congress no later than June 1, 1996.

PART 3—INDIAN HEALTH: MEDICARE

SEC. 9621. HEALTH CARE FACILITIES.

(a) TRIBAL FACILITIES.—Section 401(a) of the Indian Health Care Improvement Act (25 U.S.C 1641(a)) is amended by striking "a hospital or skilled nursing facility

of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act)" and inserting "facility of the Service, Indian tribe, tribal organization, or urban Indian organization".

(b) ELIGIBILITY FOR REIMBURSEMENT.—Section 1880(a) of the Social Security Act (42 U.S.C. 1395qq) is amended—

(1) by striking "hospital or skilled nursing";

(2) by inserting ", Indian Tribe, tribal organization, or urban Indian organization" after "Indian Health Service"; and

(3) by striking "generally to hospitals or skilled nursing facilities (as the case may be)".

SEC. 9622. PROVIDER REIMBURSEMENT.

Section 401 of the Indian Health Care Improvement Act (25 U.S.C. 1641) is amended by adding the following new subsection:

"(c) Notwithstanding any other provision of law, a health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization, that is eligible for reimbursement for medical assistance under title XVIII of the Social Security Act shall be eligible to participate in, and receive reimbursement for medical assistance provided to individuals served under any plan offered under the Medicare Plus plan on the same basis as any other health care provider in the State in which the health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization is operated.".

Subtitle G—Consultation

SEC. 9701. CONSULTATION.

Section 7(d) of the Endangered Species Act of 1973 (16 U.S.C. 1536(d)) is amended to read as follows:

"(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a)(2) of this section, the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section. This limitation on the commitment of resources is only applicable to consultations regarding site-specific projects and activities, and shall not apply to any consultation regarding an agency's periodic or long-term planning activities, mission or policy statements, programmatic documents, or general policies, regulations, or activities, whether or not such consultation has previously been initiated pursuant to a court order, and regardless of the date on which consultation was ordered or initiated.".

Subtitle H—Mapping

SEC. 9801. SHORT TITLE.

This subtitle may be cited as the "Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act of 1995".

SEC. 9802. SURVEYING AND MAPPING CONTRACTING PROGRAM.

In order to provide private firms, including small and small disadvantaged businesses, ample opportunities to provide quality services to the Department of the Interior (hereinafter referred to as the "Department"), the Secretary of the Interior (hereinafter referred to as the "Secretary") shall conduct a surveying and mapping contracting program.

SEC. 9803. INVENTORY OF ACTIVITIES.

(a) PUBLICATION OF INVENTORY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration and the trade association of private surveying and mapping firms, shall publish an inventory of surveying and mapping activities in the Department of the Interior for the last fiscal year completed prior to the date of enactment of this Act.

(b) ITEMS INCLUDED.—The inventory shall include each of the following:

(1) The total dollar value of surveying and mapping activities in each agency of the Department.

(2) The total dollar value of surveying and mapping activities in each agency of the Department performed by contract with private sector firms.

(3) The total dollar value of surveying and mapping activities in each agency of the Department performed by personnel of the Department.

(4) The total dollar value of surveying and mapping activities in each agency of the Department performed for any other department or agency of the Federal Government.

(5) The total dollar value of surveying and mapping activities in each agency of the Department performed for any State or political subdivision thereof, or for any foreign government.

(6) The total number of personnel involved in surveying and mapping activities in each agency of the Department.

SEC. 9804. PLAN TO INCREASE USE OF CONTRACTS.

(a) ESTABLISHMENT.—Based on the inventory conducted pursuant to section 9803 of this Act, not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration and the trade association of private surveying and mapping firms, shall develop and implement a plan to increase the use of contracts with private firms for surveying and mapping services.

(b) ITEMS INCLUDED IN PLAN.—The plan established pursuant to subsection (a) of this section shall include, but not be limited to each of the following:

(1) A reduction of surveying and mapping activities by personnel in the Department that duplicate capabilities available by contract from the private sector.

(2) A reduction of acquisition and maintenance of surveying and mapping equipment that duplicate capabilities and capital investment already made by the private sector.

(3) The elimination of unfair Government competition in activities in which the Department uses its personnel to perform surveying and mapping for which it shares the cost with, is reimbursed for, or makes a grant to any other agency of the Federal Government, a State or political subdivision thereof, or a foreign government, for such activities, when such activities can be obtained by contract from the private sector.

(4) The use of contracts to perform surveying and mapping requirements of the Department created through attrition.

(5) The enhancement of the leadership role of the Department of the Interior in—

(A) the preparation of standards and specifications;

(B) research in surveying and mapping instrumentation and procedures, and the prompt transfer of technology to the private sector;

(C) providing technical guidance, coordination, cost sharing, cooperative efforts and administration in the use of Federal funds for surveying and mapping activities, and the development of geographic information systems, that are performed by the private sector by the contract to Federal, State, and local government agencies;

(D) establishing a schedule with quantifiable goals for increasing the use of contracts with private sector for current and future surveying and mapping activities; and

(E) using Department personnel to perform only those surveying and mapping activities that are inherently governmental in nature, necessary to keep current the skills of such personnel for evaluating contractor performance and administering contracts, and to perform basic research.

SEC. 9805. REPORTS.

The Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on implementation of the program not later than January 15 of each year.

SEC. 9806. DEFINITIONS.

As used in this subtitle:

(1) The term "surveying and mapping" means collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man-made physical features, phenomena and boundaries of the earth and any information related thereto, including but not limited to data shown on or in relation to surveys, maps, and charts.

(2) The "contract" means an instrument to retain private firms with licensed, certified, or otherwise qualified professionals in such fields as surveying,

photogrammetry, cartography, and geodesy, which shall be awarded in accordance with the selection procedures in title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 and following).

Subtitle I—National Park System Reform

SEC. 9901. SHORT TITLE.

This subtitle may be cited as the "National Park System Reform Act of 1995".

SEC. 9902. DEFINITIONS.

As used in this subtitle:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Plan" means the National Park System Plan developed under section 101.

(3) The term "Commission" means the National Park System Review Commission established pursuant to section 103.

(4) The term "Congressional resources committees" means the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

PART 1—NATIONAL PARK SYSTEM PLAN

SEC. 9911. PREPARATION OF NATIONAL PARK SYSTEM PLAN.

(a) PREPARATION OF PLAN.—The Secretary of the Interior, acting through the Director of the National Park Service, shall prepare a National Park System Plan to guide the direction of the National Park System into the next century. The Plan shall include each of the following:

(1) Identification of goals and objectives for use in defining the mission and role of the National Park Service and the National Park System in preserving our Nation's heritage, relative to other efforts at the Federal, State, local, and private levels. This statement shall include a refinement for the definition of "nationally significant" for purposes of inclusion in the National Park System.

(2) Criteria to be used in determining which themes and types of resources are appropriate for representation in the National Park System, as well as criteria for judging individual sites, areas, and themes that are appropriate for inclusion as units of the National Park System.

(3) Identification of what constitutes adequate representation of a particular resource type or theme in the National Park System.

(4) Identification of which aspects of the Nation's heritage are adequately represented in the existing National Park System.

(5) Identification of appropriate aspects of the Nation's heritage not currently or adequately represented in the National Park System.

(6) Priorities of the themes and types of resources which should be added to the National Park System in order to provide more complete representation of our Nation's heritage.

(7) A thorough analysis of the role of the National Park System and the National Park Service with respect to (but not limited to) conservation of natural areas and ecosystems; preservation of industrial America; preservation of intangible cultural heritage such as arts, music, and folklife; presidential sites; open space protection; and provision of outdoor recreation opportunities.

(8) A comprehensive financial management plan for the National Park System which identifies all funding available to the agency, how funds will be allocated to support various programs, and the level of service to be provided.

(b) PUBLIC PARTICIPATION AND CONSULTATION.—During the preparation of the Plan under subsection (a), the Secretary shall ensure broad public participation in a manner which, at a minimum, consists of the following two elements:

(1) Solicitation of the views of the American public with regard to the future of the National Park System. Opportunities for public participation shall be made available throughout the planning process and shall include specific regional public meetings.

(2) Consultation with other Federal land management agencies, State and local officials, resource management, recreation and scholarly organizations, and other interested parties as the Secretary deems advisable.

(c) TRANSMITTAL OF REPORT.—Prior to the end of the second complete fiscal year commencing after the date of enactment of this Act, the Secretary shall transmit the Plan developed under this section to the Congressional resources committees.

(d) CONGRESSIONAL APPROVAL.—Unless Congress enacts a joint resolution rejecting all or modifying part of the Plan within 180 calendar days after the date of its transmittal to Congress, the Plan shall be deemed approved.

(e) IDENTIFICATION OF UNITS OF THE NATIONAL PARK SYSTEM.—The Secretary shall submit to the Congressional resources committees an official list of areas or units of the National Park System within 180 days after the date of the enactment of this Act. The Secretary shall establish a set of criteria for the purpose of developing such list and shall transmit those criteria to the Congressional resources committees.

(f) AUTHORITY TO ESTABLISH UNITS OF THE NATIONAL PARK SYSTEM.—After the enactment of this Act, units or areas of the National Park System may only be established pursuant to an Act of Congress or by Presidential action in accordance with the Act entitled "An Act for the preservation of American antiquities" (16 U.S.C. 431 et seq.).

SEC. 9912. MANAGEMENT REVIEW OF NATIONAL PARK SYSTEM.

(a) SELECTION CRITERIA.—(1) The Secretary shall, not later than 45 days after transmittal of the Plan under section 9911(c), publish in the Federal Register and transmit to the Congressional resources committees the criteria proposed to be used by the Department of the Interior in reviewing existing units of the National Park System under this section. The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days.

(2)(A) The Secretary shall, within 60 days of the transmittal of proposed criteria under paragraph (1), publish in the Federal Register and transmit to the Congressional resources committees the final criteria to be used in carrying out this section. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used unless disapproved by a joint resolution of Congress enacted not more than 30 legislative days after receipt of the final criteria. For the purpose of the preceding sentence, the term "legislative day" means a day on which both Houses of Congress are in session.

(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the Federal Register, opened to public comment for at least 30 days, and transmitted to the Congressional resources committees in final form.

(b) REVIEW.—(1)(A) Using the Plan deemed to be approved pursuant to section 9911(d) and the criteria developed pursuant to subsection (a), the Secretary shall review the existing National Park System to determine whether any existing units or significant portions of such units do not conform to the Plan. For any such areas, the Secretary shall determine whether there are more appropriate alternatives for managing all or a portion of such units, including through partnerships or direct management by States, local governments, other agencies and the private sector.

(B) The Secretary shall develop a report which contains a list of any unit of the National Park System where National Park Service management should be terminated and a list of any portion of units where National Park Service management should be modified as a result of nonconformance with the Plan. No area or portion of an area which Congress has designated as a national park may be included in the report.

(2) Should any such unit or portion of such unit not be recommended for continued National Park Service management, the Secretary shall make recommendations regarding management by an entity or entities other than the National Park Service.

(3) For any such unit or portion of such unit determined to have national significance, prior to including such unit or portion of such unit on a list under paragraph (1), the Secretary shall identify feasible alternatives to National Park Service management which will protect the resources of and assure continued public access to the unit.

(c) CONSULTATION.—In developing the report referred to in subsection (b), the Secretary shall consult with other Federal land management agencies, State and local officials, resource management, recreation and scholarly organizations, and other interested parties as the Secretary deems advisable.

(d) TRANSMITTAL.—Not later than 18 months after the Plan has been deemed approved, the Secretary shall transmit the report developed under this section simultaneously to the Congressional resources committees and the Commission. The report shall contain the recommendations of the Secretary for termination of National Park Service management for any unit of the National Park System that is determined not to conform with the Plan, a list of portions of units where National Park Service management should be modified, and the recommendations for alter-

native management by an entity or entities other than the National Park Service for such unit.

SEC. 9913. NATIONAL PARK SYSTEM REVIEW COMMISSION.

(a) ESTABLISHMENT OF COMMISSION; DUTIES.—(1) Following completion of the Plan as specified in section 9911, a National Park System Review Commission shall be established.

(2) The Commission shall either review the report developed under section 9912 or, if the Secretary fails to develop and transmit such report, develop the report itself. In conducting its review (or developing the report, if necessary), the Commission shall be subject to the provisions of sections 9912(b) and (c) in the same manner as such provisions apply to the Secretary. If the Secretary develops and transmits the report, the review of the Commission shall be limited to the manner in which the criteria have been applied to the existing National Park System. In addition the Commission shall seek broad public input and ensure the opportunity for input from persons who would be directly affected by recommendations regarding National Park System units identified in its report.

(3) Within 2 years after the date of its establishment, the Commission shall prepare and transmit to the Congressional resources committees a report of its work under paragraph (2) in which the Commission recommends a list of National Park System units where National Park Service management should be terminated and a list of portions of units where National Park Service management should be modified.

(b) MEMBERSHIP AND APPOINTMENT.—The Commission shall consist of 11 members, each of whom shall have substantial familiarity with, and understanding of, the National Park System and related fields. In addition, the Commission members shall have expertise in natural sciences, history, archaeology, and outdoor recreation. Five members of the Commission, one of whom shall be the Director of the National Park Service, shall be appointed by the Secretary. Two members shall be appointed by the Speaker of the United States House of Representatives in consultation with the chairman of the Committee on Resources, and one member shall be appointed by the Minority Leader of the House or Representatives in consultation with the ranking minority member of the Committee on Resources. Two members shall be appointed by the President pro tempore of the United States Senate, in consultation with the chairman of the Committee on Energy and Natural Resources and one member shall be appointed by the Minority Leader of the Senate in consultation with the ranking minority member of the Committee on Energy and Natural Resources. Each member shall be appointed within three months after the completion of the Plan as specified in section 101.

(c) CHAIR.—The Commission shall elect a chair from among its members.

(d) VACANCIES.—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(e) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the chair or a majority of the members of the Commission.

(g) COMPENSATION.—Members of the Commission shall serve without compensation as such. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(h) TERMINATION.—The Commission established pursuant to this section shall terminate 90 days after the transmittal of the report to Congress as provided in subsection (a).

(i) LIMITATION ON NATIONAL PARK SERVICE STAFF.—The Commission may hire staff to carry out its assigned responsibilities. Not more than one-half of the professional staff of the Commission shall be made up of current employees of the National Park Service.

(j) STAFF OF OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission.

(k) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be advisable.

(l) POWERS OF THE COMMISSION.—(1) The Commission shall for the purpose of carrying out this title hold such public hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(2) The Commission may make such bylaws, rules, and regulations, consistent with this part, as it considers necessary to carry out its functions under this part.

(3) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(4) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(5) The Secretary shall provide to the Commission any information available to the Secretary and requested by the Commission regarding the Plan and any other information requested by the Commission which is relevant to the duties of the Commission and available to the Secretary.

SEC. 9914. SUBSEQUENT ACT OF CONGRESS REQUIRED TO MODIFY OR TERMINATE A PARK.

Nothing in this part shall be construed as modifying or terminating any unit of the National Park System without a subsequent Act of Congress. This limitation shall not limit any existing authority of the Secretary.

SEC. 9915. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated $2,000,000 to carry out the purposes of this part.

SEC. 9916. COMMENDATION AND PROTECTION OF NATIONAL PARK RANGERS.

(a) FINDING.—The Congress recognizes the dedication, expertise and courage of the men and women who serve as rangers and other employees of the National Park Service and finds their service to the protection of our park resources and the safety of the hundreds of millions of Americans who visit our national parks each year to be indispensable.

(b) PROTECTION OF NATIONAL PARK SERVICE EMPLOYEES.—As soon as possible as part of the report developed under section 9911, the Secretary shall report on the procedures that have been instituted to report to the United States Attorney or other appropriate law enforcement official any intimidation, threats, or acts of violence against employees of the National Park Service related to their duties.

PART 2—NEW AREA ESTABLISHMENT

SEC. 9921. STUDY OF NEW PARK SYSTEM AREAS.

Section 8 of the Act of August 18, 1970, entitled "An Act to improve the Administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" (16 U.S.C. 1a–1 and following) is amended as follows:

(1) By inserting "GENERAL AUTHORITY.—" after "(a)".

(2) By striking the second through the sixth sentences of subsection (a).

(3) By redesignating the last two sentences of subsection (a) as subsection (f) and inserting in the first of such sentences before the words "For the purposes of carrying" the following: "(f) AUTHORIZATION OF APPROPRIATIONS.—".

(4) By striking subsection (b).

(5) By inserting the following after subsection (a):

"(b) STUDIES OF AREAS FOR POTENTIAL ADDITION.—(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

"(2) In developing the list to be submitted under this subsection, the Secretary shall give consideration to those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility. The Secretary shall give special consideration to themes, sites, and resources not already adequately represented in the National Park System as identified in the National Park System Plan to be developed under section 101 of the National Park System Reform Act of 1995.

"(3) No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this subsection, except as provided by specific authorization of an Act of Congress.

"(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas,

provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than $25,000.

"(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

"(c) REPORT.—(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date of enactment of specific legislation providing for the study of such area. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

"(2) In conducting the study, the Secretary shall consider whether the area under study—

"(A) possesses nationally significant natural or cultural resources, or outstanding recreational opportunities, and that the area represents one of the most important examples of a particular resource type in the country; and

"(B) is a suitable and feasible addition to the system.

"(3) Each study—

"(A) shall consider the following factors with regard to the area being studied—

"(i) the rarity and integrity of the resources;

"(ii) the threats to those resources;

"(iii) whether similar resources are already protected in the National Park System or in other public or private ownership;

"(iv) the public use potential;

"(v) the interpretive and educational potential;

"(vi) costs associated with acquisition, development and operation;

"(vii) the socioeconomic impacts of any designation;

"(viii) the level of local and general public support, and

"(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

"(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

"(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

"(D) may include any other information which the Secretary deems to be relevant.

"(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969.

"(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary's preferred management option for the area.

"(d) NEW AREA STUDY OFFICE.—The Secretary shall establish a single office to be assigned to prepare all new area studies and to implement other functions of this section.

"(e) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.".

TITLE X—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Water Resources

SEC. 10001. COMMERCIAL CONCESSIONS AT CORPS OF ENGINEERS PROJECTS.

Notwithstanding part 1 of subtitle C of title IX of this Act, the Secretary of the Army shall not modify any concession service agreement, concession license, or similar instrument (or any policy or procedure relating to such agreement, license, or agreement) except to the extent that such modification is permitted under laws in effect on the day before the date of the enactment of this Act.

SEC. 10002. PROHIBITION ON SALE OF CORPS OF ENGINEERS PROJECTS.

(a) PROHIBITION.—Notwithstanding part 1 of subtitle B of title IX of this Act, the sale of any project or project feature operated by the Corps of Engineers (including any dam, lock, reservoir, related transmission and generation structures, equipment, facilities, and real property) is prohibited.

(b) COOPERATION WITH PURCHASERS OF ELECTRIC POWER.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Army shall cooperate, to the maximum extent practicable, with a non-Federal purchaser of electric power generated at any project under the jurisdiction of the Secretary to facilitate the purchaser's access to, operation of, and maintenance, repair, rehabilitation, and replacement of hydroelectric power facilities at the project.

(2) CONTINUED EFFECTIVENESS OF PROJECT PURPOSES.—In carrying out paragraph (1), the Secretary shall take such actions as may be necessary to ensure that each project referred to in paragraph (1) continues to operate in accordance with the authorized purpose or purposes of the project.

SEC. 10003. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

(e) EXPIRATION OF AUTHORITY.—The authority of the Director to assess and collect fees under subsection (a) shall expire on September 30, 2002.

Subtitle B—Ocean Shipping Reform

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the "Ocean Shipping Reform Act of 1995".

CHAPTER 1—OCEAN SHIPPING REFORM

SEC. 10211. PURPOSES.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) to permit carriers and shippers to develop transportation arrangements to meet their specific needs.".

SEC. 10212. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) effective January 1, 1997—

(A) by striking paragraph (9); and

(B) by redesignating paragraphs (10) through (19) as paragraphs (9) through (18), respectively; and

(2) effective June 1, 1997—

(A) by striking paragraph (4);

(B) in paragraph (7) by striking "a common tariff;" and inserting "a common schedule of transportation rates, charges, classifications, rules, and practices;";

(C) by striking paragraph (10) (as redesignated by paragraph (1) of this section);

(D) by striking paragraph (13) (as redesignated by paragraph (1) of this section);

(E) by striking paragraph (16) (as redesignated by paragraph (1) of this section);

(F) by striking paragraph (18) (as redesignated by paragraph (1) of this section) and inserting the following:

"(18) 'ocean freight forwarder' means a person that—

"(A)(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; or

"(ii) processes the documentation or performs related activities incident to those shipments; or

"(B) acts as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.";

(G) by striking paragraph (21);

(H) in paragraph (23)—

(i) by striking "or" the second place it appears and inserting a comma; and

(ii) by striking the period and inserting ", a shippers' association, or an ocean freight forwarder that accepts responsibility for payment of the ocean freight.";

(I) by striking paragraph (24) and inserting the following:

"(24) 'shippers' association' means a group of shippers that consolidates or distributes freight, on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or ocean transportation contracts."; and

(J) by inserting after paragraph (18) (as redesignated by paragraph (1) of this section) the following:

"(19) 'ocean transportation contract' means a contract in writing separate from the bill of lading or receipt between 1 or more common carriers or a conference and 1 or more shippers to provide specified services under specified rates and conditions.".

SEC. 10213. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

Effective June 1, 1997, section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended—

(1) in paragraph (5) by striking "non-vessel-operating common carriers" and inserting "ocean freight forwarders"; and

(2) by striking paragraph (7) and inserting the following:

"(7) discuss any matter related to ocean transportation contracts, and enter ocean transportation contracts and agreements related to those contracts.".

SEC. 10214. AGREEMENTS.

Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended—

(1) effective January 1, 1997—

(A) in subsection (b)(4) by striking "at the request of any member, require an independent neutral body to police fully" and inserting "state the provisions, if any, for the policing of";

(B) in subsection (b)(7) by striking "and" at the end;

(C) in subsection (b)(8) by striking the period and inserting "; and"; and

(D) by adding at the end of subsection (b) the following:

"(9) provide that a member of the conference may enter individual and independent negotiations and may conclude individual and independent service contracts under section 8 of this Act.";

(2) effective June 1, 1997—

(A) by striking subsection (b)(8) and inserting the following:

"(8) provide that any member of the conference may take independent action on any rate or service item agreed upon by the conference for transportation provided under section 8(a) of this Act upon not more than 3 business days' notice to the conference, and that the conference will provide the new rate or service item for use by that member, effective no later than 3 business days after receipt of that notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference provision for that rate or service item;";

(B) in subsection (b)(9) by striking "service" and inserting "ocean transportation" and by striking the period at the end and inserting "; and";

(C) by adding at the end of subsection (b) the following:

"(10) prohibit the conference from—

"(A) prohibiting or restricting the members of the conference from engaging in individual negotiations for ocean transportation contracts under section 8(b) with 1 or more shippers; and

"(B) issuing mandatory rules or requirements affecting ocean transportation contracts that may be entered by 1 or more members of the conference, except that a conference may require that a member of the conference disclose the existence of an existing individual ocean transportation contract or negotiations on an ocean transportation contract, when the conference enters negotiations on an ocean transportation contract with the same shipper."; and

(D) in subsection (e) by striking "carrier that are required to be set forth in a tariff," and inserting "carrier,".

SEC. 10215. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended—

(1) by striking subsection (a)(6) and inserting the following:

"(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation, in effect before the effective date of this Act and any tariff, rate, fare, charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation."; and

(2) in subsection (c)(1) by striking "agency" and inserting "agency, department,".

SEC. 10216. COMMON AND CONTRACT CARRIAGE.

(a) IN GENERAL.—Effective June 1, 1997—

(1) section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed; and

(2) section 8 of the Shipping Act of 1984 (46 U.S.C. App. 1707) is amended to read as follows:

"SEC. 8. COMMON AND CONTRACT CARRIAGE.

"(a) COMMON CARRIAGE.—

"(1) A common carrier and a conference shall make available a schedule of transportation rates which shall include the rates, terms, and conditions for transportation services not governed by an ocean transportation contract, and shall provide the schedule of transportation rates, in writing, upon the request of any person. A common carrier and a conference may assess a reasonable charge for complying with a request for a rate, term, and condition, except that the charge may not exceed the cost of providing the information requested.

"(2) A dispute between a common carrier or conference and a person as to the applicability of the rates, terms, and conditions for ocean transportation services shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

"(3) A claim concerning a rate for ocean transportation services which involves false billing, false classification, false weighing, false report of weight, or false measurement shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

"(b) CONTRACT CARRIAGE.—

"(1) 1 or more common carriers or a conference may enter into an ocean transportation contract with 1 or more shippers. A common carrier may enter into ocean transportation contracts without limitations concerning the number of ocean transportation contracts or the amount of cargo or space involved. The status of a common carrier as an ocean common carrier is not affected by the number or terms of ocean transportation contracts entered.

"(2) A party to an ocean transportation contract entered under this section shall have no duty in connection with services provided under the contract other than the duties specified by the terms of the contract.

"(3)(A) An ocean transportation contract or the transportation provided under that contract may not be challenged in any court on the grounds that the contract violates a provision of this Act.

"(B) The exclusive remedy for an alleged breach of an ocean transportation contract is an action in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

"(4) The requirements and prohibitions concerning contracting by conferences contained in sections 5(b)(9) and (10) of this Act shall also apply to any agreement among one or more ocean common carriers that is filed under section 5(a) of this Act.".

(b) CONFIDENTIALITY OF CONTRACTS.—Effective January 1, 1998, section 8(b) of the Shipping Act of 1984 (46 U.S.C. App. 1707(b)), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(5) A contract entered under this section may be made on a confidential basis, upon agreement of the parties. An ocean common carrier that is a member of a conference agreement may not be prohibited or restricted from agreeing with 1 or more shippers that the parties to the contract will not disclose the rates, services, terms, or conditions of that contract to any other member of the agreement, to the conference, to any other carrier, shipper, conference, or to any other third party.".

SEC. 10217. PROHIBITED ACTS.

Section 10 of the Shipping Act of 1984 (46 U.S.C. App. 1709) is amended—

(1) effective January 1, 1997, in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

"(1) except for service contracts, subject a person, place, port, or shipper to unreasonable discrimination;"; and

(B) by striking paragraphs (2), (3), (4), and (8);

(2) effective June 1, 1997, by striking subsection (b) and inserting the following:

"(b) COMMON CARRIERS.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

"(1) except for ocean transportation contracts, subject a person, place, port, or shipper to unreasonable discrimination;

"(2) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier or has filed a complaint, or for any other reason;

"(3) employ any fighting ship;

"(4) subject any particular person, locality, class, or type of shipper or description of traffic to an unreasonable refusal to deal;

"(5) refuse to negotiate with a shippers' association;

"(6) knowingly and willfully accept cargo from or transport cargo for the account of an ocean freight forwarder that does not have a bond, insurance, or other surety as required by section 19;

"(7) knowingly and willfully enter into an ocean transportation contract with an ocean freight forwarder or in which an ocean freight forwarder is listed as an affiliate that does not have a bond, insurance, or other surety as required by section 19; or

"(8)(A) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

"(i) may be used to the detriment or prejudice of the shipper or consignee;

"(ii) may improperly disclose its business transaction to a competitor; or

"(iii) may be used to the detriment or prejudice of any common carrier; except that nothing in this paragraph shall be construed to prevent providing the information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that car-

rier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with a conference or for the purpose of determining whether a member of the conference has breached the conference agreement or for the purpose of compiling statistics of cargo movement, but the use of that information for any other purpose prohibited by this Act or any other Act is prohibited; and

"(B) after December 31, 1997, the rates, services, terms, and conditions of an ocean transportation contract may not be disclosed under this paragraph if the contract has been made on a confidential basis under section 8(b) of this Act.

The exclusive remedy for a disclosure under this paragraph shall be an action for breach of contract as provided in section 8(b)(3) of this Act.";

(3) effective June 1, 1997—

(A) by striking subsection (c)(1) and inserting the following:

"(1) boycott, take any concerted action resulting in an unreasonable refusal to deal, or implement a policy or practice that results in an unreasonable refusal to deal;";

(B) in subsection (c)(5) by inserting "as defined in section 3(14)(A) of this Act" after "freight forwarder"; and

(C) in subsection (c)(6) by striking "a service contract." and inserting "an ocean transportation contract."; and

(4) effective June 1, 1997, in subsection (d)(3) by striking "subsection (b)(11), (12), and (16)" and inserting "paragraphs (1), (4), and (8) of subsection (b)".

SEC. 10218. REPARATIONS.

Effective June 1, 1997, section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended—

(1) by inserting "or counter-complainant" after "complainant" the second place it appears;

(2) by striking "10(b) (5) or (7)" and inserting "10(b) (2) or (3)"; and

(3) by striking the last sentence.

SEC. 10219. FOREIGN LAWS AND PRACTICES.

Effective on June 1, 1997, section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended—

(1) in subsection (a)(1)—

(A) by striking "'non-vessel-operating common carrier',"; and

(B) by inserting "'ocean freight forwarder'," after "'ocean common carrier',";

(2) in subsection (a)(4) by striking "non-vessel-operating common carrier operations,";

(3) in subsection (e)(1) by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Secretary, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

"(C) a fee, not to exceed $1,000,000 per voyage."; and

(4) in subsection (h) by striking "section 13(b)(5) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(5))" and inserting "section 13(b)(2) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(2))".

SEC. 10220. PENALTIES.

Effective June 1, 1997, section 13 of the Shipping Act of 1984 (46 U.S.C. App. 1712) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (1) and (3) and redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively;

(B) by striking paragraph (1), as so redesignated, and inserting the following:

"(1) If the Secretary finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Secretary may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Secretary, the Secretary of the Treasury shall, with respect to the vessel concerned,

refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).''; and

(C) in paragraph (3), as so redesignated, by striking ''finds appropriate,'' and all that follows through the period at the end and inserting ''finds appropriate including the imposition of the penalties authorized under paragraph (2).''; and

(2) in subsection (f)(1) by striking ''section 10 (a)(1), (b)(1), or (b)(4)'' and inserting ''section 10(a)(1)''.

SEC. 10221. REPORTS.

(a) IN GENERAL.—Effective January 1, 1997, section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended—

(1) in the section heading by striking ''and certificates'';

(2) by striking ''(a) REPORTS.—''; and

(3) by striking subsection (b).

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 15 and inserting the following:

''Sec. 15. Reports.''.

SEC. 10222. REGULATIONS.

Section 17 of the Shipping Act of 1984 (46 U.S.C. App. 1716) is amended—

(1) by striking ''(a)''; and

(2) by striking subsection (b).

SEC. 10223. REPEAL.

(a) REPEAL.—Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 18.

SEC. 10224. OCEAN FREIGHT FORWARDERS.

Effective June 1, 1997, section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended—

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

''(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that the Commission determines to be qualified by experience and character to render forwarding services.'';

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

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

''(b) FINANCIAL RESPONSIBILITY.—

''(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

''(2) A bond, insurance, or other surety obtained pursuant to this section shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under this Act or order for reparation issued pursuant to section 11 or 14 of this Act.

''(3) An ocean freight forwarder not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.'';

(4) in subsection (c), as redesignated by paragraph (2) of this section, by striking ''a bond in accordance with subsection (a)(2)'' and inserting ''a bond, proof of insurance, or other surety in accordance with subsection (b)(1)''; and

(5) in subsection (e), as redesignated by paragraph (2) of this section—

(A) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(B) by adding at the end the following:

''(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

''(A) deny to any member of the conference or group the right, upon notice of not more than 3 business days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

"(B) agree to limit the payment of compensation to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a common schedule of transportation rates provided under section 8(a) of this Act, and which are assessed against the cargo on which the forwarding services are provided.".

SEC. 10225. EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.

Section 20(e) of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—

"(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of the enactment of the Ocean Shipping Reform Act of 1995 may remain in full force and effect according to its terms.

"(2) This Act and the amendments made by this Act shall not affect any suit—

"(A) filed before the date of the enactment of the Ocean Shipping Reform Act of 1995;

"(B) with respect to claims arising out of conduct engaged in before the date of the enactment of the Ocean Shipping Reform Act of 1995, filed within 1 year after the date of the enactment of the Ocean Shipping Reform Act of 1995;

"(C) with respect to claims arising out of conduct engaged in after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before January 1, 1997, pertaining to a violation of section 10(b) (1), (2), (3), (4), or (8), as in effect before January 1, 1997, filed by June 1, 1997;

"(D) with respect to claims pertaining to the failure of a common carrier or conference to file its tariffs or service contracts in accordance with this Act in the period beginning January 1, 1997, and ending June 1, 1997, filed by December 31, 1997; or

"(E) with respect to claims arising out of conduct engaged in on or after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before June 1, 1997, filed by December 31, 1997.".

SEC. 10226. REPEAL.

(a) REPEAL.—Effective June 1, 1997, section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

(b) CLERICAL AMENDMENT.—Effective June 1, 1997, the table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 23.

SEC. 10227. MARINE TERMINAL OPERATOR SCHEDULES.

(a) IN GENERAL.—Effective June 1, 1997, the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) is amended by adding at the end the following:

"SEC. 24. MARINE TERMINAL OPERATOR SCHEDULES.

"A marine terminal operator shall make available to the public a schedule of rates, regulations, and practices, including limitations of liability, pertaining to receiving, delivering, handling, or storing property at its marine terminal. The schedule shall be enforceable as an implied contract, without proof of actual knowledge of its provisions, for any activity by the marine terminal operator that is taken to—

"(1) efficiently transfer property between transportation modes;

"(2) protect property from damage or loss;

"(3) comply with any governmental requirement; or

"(4) store property in excess of the terms of any other contract or agreement, if any, entered into by the marine terminal operator.".

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by adding at the end the following:

"Sec. 24. Marine terminal operator schedules.".

CHAPTER 2—CONTROLLED CARRIERS AMENDMENTS

SEC. 10231. CONTROLLED CARRIERS.

Effective June 1, 1997, section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended—

(1)(A) in the first sentence of subsection (a)—

(i) by striking "in its tariffs or service contracts filed with the Commission"; and

(ii) by striking "in those tariffs or service contracts"; and

(B) in the last sentence of subsection (a) by striking "filed by a controlled carrier";

(2) in paragraphs (1) and (2) of subsection (b) by striking "filed" and inserting "published";

(3) in subsection (c) by striking the first sentence;

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

"(d) Within 120 days of the receipt of information requested by the Secretary under this section, the Secretary shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable. If so, the Secretary shall issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be approved. Pending a determination, the Secretary may suspend the rates, charges, classifications, rules, or regulations at any time. No period of suspension may be greater than 180 days. Whenever the Secretary has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may publish and, after notification to the Secretary, assess new rates, charges, classifications, rules, or regulations—except that the Secretary may reject the new rates, charges, classifications, rules, or regulations if the Secretary determines that they are unreasonable.";

(5) in subsection (f) by striking "This" and inserting "Subject to subsection (g), this"; and

(6) by adding at the end the following:

"(g) The rate standards, information submissions, remedies, reviews, and penalties in this section shall also apply to ocean common carriers that are not controlled, but who have been determined by the Secretary to be structurally or financially affiliated with nontransportation entities or organizations (government or private) in such a way as to affect their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way that disadvantages an ocean common carrier or carriers. The Secretary may make such determinations upon request of any person or upon the Secretary's own motion, after conducting an investigation and a public hearing.

"(h) The Secretary shall issue regulations by June 1, 1997, that prescribe the procedures and requirements that would govern how price and other information is to be submitted by controlled carriers and carriers subject to determinations made under subsection (g) when such information would be needed to determine whether prices charged by these carriers are unfair, predatory, or anticompetitive.

"(i) In any instance where information provided to the Secretary under this section does not result in an affirmative finding or enforcement action by the Secretary that information may not be made public and shall be exempt from disclosure under section 552 of title 5, United States Code, except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.".

SEC. 10232. NEGOTIATING STRATEGY TO REDUCE GOVERNMENT OWNERSHIP AND CONTROL OF COMMON CARRIERS.

Not later than January 1, 1997, the Secretary of Transportation shall develop, submit to Congress, and begin implementing a negotiation strategy to persuade foreign governments to divest themselves of ownership and control of ocean common carriers (as that term is defined in section 3(18) of the Shipping Act of 1984 (46 U.S.C. App. 1702).

SEC. 10233. ANNUAL REPORT BY THE SECRETARY.

Not later than September 30, 1998, and annually thereafter, the Secretary shall report to Congress on the actions taken under the Foreign Shipping Practices Act (46 U.S.C. App. 1708), section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708), and section 10232 of this Act and the effect on United States maritime employment of laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country that result in the existence of conditions that adversely affect the operations of United States carriers in United States oceanborne trade.

CHAPTER 3—ELIMINATION OF THE FEDERAL MARITIME COMMISSION

SEC. 10241. PLAN FOR AGENCY TERMINATION.

(a) IN GENERAL.—No later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Secretary of Transportation, shall submit to Congress a plan to eliminate the Federal Maritime Commission no later than October 1, 1997. The plan shall include a

timetable for the transfer of remaining functions of the Federal Maritime Commission to the Secretary of Transportation beginning as soon as feasible in fiscal year 1996. The plan shall also address matters related to personnel and other resources necessary for the Secretary of Transportation to perform the remaining functions of the Federal Maritime Commission.

(b) IMPLEMENTATION.—The Director of the Office of Management and Budget shall implement the plan to eliminate the Federal Maritime Commission submitted to Congress under subsection (a) beginning as soon as feasible in fiscal year 1996.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

Subtitle C—Midewin National Tallgrass Prairie

CHAPTER 1—GENERAL PROVISIONS

SEC. 10301. SHORT TITLE.

This subtitle may be cited as the "Illinois Land Conservation Act of 1995".

SEC. 10302. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) AGRICULTURAL PURPOSES.—The term "agricultural purposes" means the use of land for row crops, pasture, hay, and grazing.

(3) ARSENAL.—The term "Arsenal" means the Joliet Army Ammunition Plant located in the State of Illinois.

(4) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(5) DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—The term "Defense Environmental Restoration Program" means the program of environmental restoration for defense installations established by the Secretary of Defense under section 2701 of title 10, United States Code.

(6) ENVIRONMENTAL LAW.—The term "environmental law" means all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health, natural and cultural resources, or the environment, including CERCLA, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(7) HAZARDOUS WASTE.—The term "hazardous substance" has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(8) MNP.—The term "MNP" means the Midewin National Tallgrass Prairie established pursuant to section 10314 and managed as a part of the National Forest System.

(9) NATIONAL CEMETERY.—The term "national cemetery" means a cemetery established and operated as part of the National Cemetery System of the Department of Veterans Affairs and subject to the provisions of chapter 24 of title 38, United States Code.

(10) PERSON.—The term "person" has the meaning given such term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(11) POLLUTANT OR CONTAMINANT.—The term "pollutant or contaminant" has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(12) RELEASE.—The term "release" has the meaning given such term by section 101(22) of CERCLA (42 U.S.C. 9601(22)).

(13) RESPONSE ACTION.—The term "response action" has the meaning given the term "response" by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

CHAPTER 2—CONVERSION OF JOLIET ARMY AMMUNITION PLANT TO MIDEWIN NATIONAL TALLGRASS PRAIRIE

SEC. 10311. PRINCIPLES OF TRANSFER.

(a) LAND USE PLAN.—The Congress ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on May 30, 1995.

(b) TRANSFER WITHOUT REIMBURSEMENT.—The area constituting the Midewin National Tallgrass Prairie shall be transferred, without reimbursement, to the Secretary of Agriculture.

(c) MANAGEMENT OF MNP.—Management by the Secretary of Agriculture of those portions of the Arsenal transferred to the Secretary under this subtitle shall be in accordance with sections 10314 and 10315 regarding the Midewin National Tallgrass Prairie.

(d) SECURITY MEASURES.—The Secretary of the Army and the Secretary of Agriculture shall each provide and maintain physical and other security measures on such portion of the Arsenal as is under the administrative jurisdiction of such Secretary. Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to such portions of the Arsenal as are under the administrative jurisdiction of such Secretary and that may endanger health or safety.

(e) COOPERATIVE AGREEMENTS.—The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal agencies, State and local governments, private organizations, and corporations to carry out the purposes for which the Midewin National Tallgrass Prairie is established.

(f) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 10312. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ARSENAL.

(a) INITIAL TRANSFER OF JURISDICTION.—Within 6 months after the date of the enactment of this Act, the Secretary of the Army shall effect the transfer of those portions of the Arsenal property identified for transfer to the Secretary of Agriculture pursuant to subsection (d). The Secretary of the Army shall transfer to the Secretary of Agriculture only those portions of the Arsenal for which the Secretary of the Army and the Administrator concur that no further action is required under any environmental law and which therefore have been eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. Within 4 months after the date of the enactment of this Act, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portions of the Arsenal to be transferred to the Secretary of Agriculture pursuant to this subsection.

(b) ADDITIONAL TRANSFERS.—The Secretary of the Army shall transfer to the Secretary of Agriculture in accordance with section 10316(c) any portion of the property generally identified in subsection (d) and not transferred under subsection (a) after the Secretary of the Army and the Administrator concur that no further action is required at that portion of property under any environmental law and that such portion is therefore eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. At least 2 months before any transfer under this subsection, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portion of the Arsenal to be transferred. Transfer of jurisdiction pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

(c) EFFECT ON CONTINUED RESPONSIBILITIES AND LIABILITY OF SECRETARY OF THE ARMY.—Subsections (a) and (b), and their requirements, shall not in any way affect the responsibilities and liabilities of the Secretary of the Army specified in section 10313.

(d) IDENTIFICATION OF PORTIONS FOR TRANSFER FOR MNP.—The lands to be transferred to the Secretary of Agriculture under subsections (a) and (b) shall be identified on a map or maps which shall be agreed to by the Secretary of the Army and the Secretary of Agriculture. Generally, the land to be transferred to the Secretary of Agriculture shall be all the real property and improvements comprising the Arsenal, except for lands and facilities described in subsection (e) or designated for transfer or disposal under section 10316 or chapter 3.

(e) PROPERTY USED FOR ENVIRONMENTAL CLEANUP.—

(1) RETENTION.—The Secretary of the Army shall retain jurisdiction, authority, and control over real property at the Arsenal to be used for—

(A) water treatment;

(B) the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, hazardous material, or petroleum products or their derivatives;

(C) other purposes related to any response action at the Arsenal; and

(D) other actions required at the Arsenal under any environmental law to remediate contamination or conditions of noncompliance with any environmental law.

(2) CONDITIONS.—The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this subsection and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 10314(c), and with the other provisions of sections 10314 and 10315.

(3) PRIORITY OF RESPONSE ACTIONS.—In the case of any conflict between management of the property by the Secretary of Agriculture and any response action, or any other action required under any other environmental law, including actions to remediate petroleum products of their derivatives, the response action or other action shall take priority.

(f) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal property from the Secretary of the Army to the Secretary of Agriculture shall be borne by the Secretary of Agriculture.

SEC. 10313. CONTINUATION OF RESPONSIBILITY AND LIABILITY OF SECRETARY OF THE ARMY FOR ENVIRONMENTAL CLEANUP.

(a) RESPONSIBILITY.—The liabilities and responsibilities of the Secretary of the Army under any environmental law shall not transfer under any circumstances to the Secretary of Agriculture as a result of the property transfers made under section 10312 or section 10316, or as a result of interim activities of the Secretary of Agriculture on Arsenal property under section 10311(f). With respect to the real property at the Arsenal, the Secretary of the Army shall remain liable for and continue to carry out—

(1) all response actions required under CERCLA at or related to the property;

(2) all remediation actions required under any other environmental law at or related to the property; and

(3) all actions required under any other environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel) at or related to the property.

(b) LIABILITY.—

(1) IN GENERAL.—Nothing in this Act shall be construed to effect, modify, amend, repeal, alter, limit, or otherwise change, directly or indirectly, the responsibilities or liabilities under any environmental law of any person (including the Secretary of Agriculture), except as provided in paragraph (3) with respect to the Secretary of Agriculture.

(2) LIABILITY OF SECRETARY OF THE ARMY.—The Secretary of the Army shall retain any obligation or other liability at the Arsenal that the Secretary may have under CERCLA and other environmental laws. Following transfer of any portions of the Arsenal pursuant to this Act, the Secretary of the Army shall be accorded all easements and access to such property as may be reasonably required to carry out such obligation or satisfy such liability.

(3) SPECIAL RULES FOR SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall not be responsible or liable under any environmental law for matters which are in any way related directly or indirectly to activities of the Secretary of the Army, or any party acting under the authority of the Secretary in connection with the Defense Environmental Restoration Program, at the Arsenal and which are for any of the following:

(A) Costs of response actions required under CERCLA at or related to the Arsenal.

(B) Costs, penalties, or fines related to noncompliance with any environmental law at or related to the Arsenal or related to the presence, release, or threat of release of any hazardous substance, pollutant, contaminant, hazardous waste or hazardous material of any kind at or related to the Arsenal, including contamination resulting from migration of hazardous substances, pollutants, contaminants, hazardous materials, or petroleum products or their derivatives disposed during activities of the Department of the Army.

(C) Costs of actions necessary to remedy such noncompliance or other problem specified in subparagraph (B).

(c) PAYMENT OF RESPONSE ACTION COSTS.—Any Federal department or agency that had or has operations at the Arsenal resulting in the release or threatened release of hazardous substances, pollutants, or contaminants shall pay the cost of related response actions, or related actions under other environmental laws, including actions to remediate petroleum products or their derivatives.

(d) CONSULTATION.—The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the Secretary of Agriculture's management of real property included in the Midewin National Tallgrass Prairie subject to any response action or other action at the Arsenal being carried out by or under the authority of the Secretary of the Army under any environmental law. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities on the Midewin National Tallgrass Prairie that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property. In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 10314(c), and the other provisions of sections 10314 and 10315.

SEC. 10314. ESTABLISHMENT AND ADMINISTRATION OF MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) ESTABLISHMENT.—On the effective date of the initial transfer of jurisdiction of portions of the Arsenal to the Secretary of Agriculture under section 10312(a), the Secretary of Agriculture shall establish the Midewin National Tallgrass Prairie. The MNP shall—

(1) be administered by the Secretary of Agriculture; and

(2) consist of the real property so transferred and such other portions of the Arsenal subsequently transferred under section 10312(b) or 10316.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall manage the Midewin National Tallgrass Prairie as a part of the National Forest System in accordance with this Act and the laws, rules, and regulations pertaining to the National Forest System, except that the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) INITIAL MANAGEMENT ACTIVITIES.—In order to expedite the administration and public use of the Midewin National Tallgrass Prairie, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as specified in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(3) LAND AND RESOURCE MANAGEMENT PLAN.—In developing a land and resource management plan for the Midewin National Tallgrass Prairie, the Secretary of Agriculture shall consult with the Illinois Department of Conservation and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture under this Act after the development of a land and resource management plan for the MNP may be managed in accordance with such plan without need for an amendment to the plan.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The Midewin National Tallgrass Prairie is established to be managed for National Forest System purposes, including the following:

(1) To manage the land and water resources of the MNP in a manner that will conserve and enhance the native populations and habitats of fish, wildlife, and plants.

(2) To provide opportunities for scientific, environmental, and land use education and research.

(3) To allow the continuation of agricultural uses of lands within the MNP consistent with section 10315(b).

(4) To provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(d) OTHER LAND ACQUISITION FOR MNP.—

(1) LAND ACQUISITION FUNDS.—Notwithstanding section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), monies appropriated from the Land and Water Conservation Fund established under section 2 of such Act (16 U.S.C. 460l–5) shall be available for acquisition of lands and interests in land for inclusion in the Midewin National Tallgrass Prairie.

(2) ACQUISITION OF PRIVATE LANDS.—Acquisition of private lands for inclusion in the Midewin National Tallgrass Prairie shall be on a willing seller basis only.

(e) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the Midewin National Tallgrass Prairie, the Secretary of Agriculture is authorized and encouraged to cooperate with appropriate Federal, State, and local governmental agencies, private organizations and corporations. Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978 and the Forest and Rangeland Renewable Resources Research Act of 1978. The objects of such cooperation may include public education, land and resource protection and cooperative management among government, corporate, and private landowners in a manner which furthers the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 10315. SPECIAL MANAGEMENT REQUIREMENTS FOR MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the Midewin National Tallgrass Prairie. Nothing herein shall preclude construction and maintenance of roads for use within the MNP or the granting of authorizations for utility rights-of-way under applicable Federal law or preclude such access as is necessary. Nothing herein shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this subtitle.

(b) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the Midewin National Tallgrass Prairie, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If, at the time of transfer of jurisdiction under section 10312, there exists any lease issued by the Department of the Army, Department of Defense, or any other agency thereof, for agricultural purposes upon the parcel transferred, the Secretary of Agriculture, upon transfer of jurisdiction, shall convert the lease to a special use authorization, the terms of which shall be identical in substance to the lease that existed prior to the transfer, including the expiration date and any payments owed the United States.

(2) The Secretary of Agriculture may issue special use authorizations to persons for use of the Midewin National Tallgrass Prairie for agricultural purposes. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date 20 years from the date of the enactment of this Act, except that nothing in this Act shall preclude the Secretary of Agriculture from issuing agricultural special use authorizations or grazing permits which are effective after 20 years from the date of the enactment of this Act for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of the Midewin National Tallgrass Prairie.

(c) TREATMENT OF RENTAL FEES.—Monies received pursuant to subsection (b) shall be subject to distribution to the State of Illinois and affected counties pursuant to the Acts of May 23, 1908, and March 1, 1911 (16 U.S.C. 500). All such monies not distributed pursuant to such Acts shall be deposited into the Treasury and shall constitute a special fund, which shall be available to the Secretary of Agriculture, in such amounts as are provided in advance in appropriation Acts, to cover the cost to the United States of such prairie-improvement work as the Secretary may direct. Any portion of any deposit made to the fund which the Secretary determines to be

in excess of the cost of doing such work shall be transferred, upon such determination, to miscellaneous receipts, Forest Service Fund, as a National Forest receipt of the fiscal year in which such transfer is made.

(d) USER FEES.—The Secretary of Agriculture is authorized to charge reasonable fees for the admission, occupancy, and use of the Midewin National Tallgrass Prairie and may prescribe a fee schedule providing for reduced, or a waiver of, fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education. The Secretary shall permit admission, occupancy, and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(e) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary pursuant to this subtitle.

(f) TREATMENT OF USER FEES AND SALVAGE RECEIPTS.—Monies collected pursuant to subsections (d) and (e) shall be covered into the Treasury and constitute a special fund to be known as the Midewin National Tallgrass Prairie Restoration Fund. Deposits in the Midewin National Tallgrass Prairie Restoration Fund shall be available to the Secretary of Agriculture, in such amounts as are provided in advance in appropriation Acts, for restoration and administration of the Midewin National Tallgrass Prairie, including construction of a visitor and education center, restoration of ecosystems, construction of recreational facilities (such as trails), construction of administrative offices, and operation and maintenance of the MNP.

SEC. 10316. SPECIAL DISPOSAL RULES FOR CERTAIN ARSENAL PARCELS INTENDED FOR MNP.

(a) DESCRIPTION OF PARCELS.—Except as provided in subsection (b), the following areas are designated for transfer or disposal pursuant to subsection (c):

(1) Manufacturing Area—Study Area 1—Southern Ash Pile, Study Area 2—Explosive Burning Ground, Study Area 3—Flashing Grounds, Study Area 4—Lead Azide Area, Study Area 10—Toluene Tank Farms, Study Area 11—Landfill, Study Area 12—Sellite Manufacturing Area, Study Area 14—Former Pond Area, Study Area 15—Sewage Treatment Plant.

(2) Load Assemble Packing Area—Group 61: Study Area L1, Explosive Burning Ground: Study Area L2, Demolition Area: Study Area L3, Landfill Area: Study Area L4, Salvage Yard: Study Area L5, Group 1: Study Area L7, Group 2: Study Area L8, Group 3: Study Area L9, Group 3A: Study Area L10, Group 4: Study Area L14, Group 5: Study Area L15, Group 8: Study Area L18, Group 9: Study Area L19, Group 27: Study Area L23, Group 62: Study Area L25, PVC Area: Study Area L33, including all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the Manufacturing and Load Assembly and Packing sides of the Joliet Arsenal as delineated in the Dames and Moore Final Report, Proposed Future Land Use Map, dated May 30, 1995.

(b) EXCEPTION.—The parcels described in subsection (a) shall not include the property at the Arsenal designated for disposal under chapter 3.

(c) INITIAL OFFER TO SECRETARY OF AGRICULTURE.—Within 6 months after the construction and installation of any remedial design approved by the Administrator and required for any lands described in subsection (a), the Administrator shall provide to the Secretary of Agriculture all existing information regarding the implementation of such remedy, including information regarding its effectiveness. Within 3 months after the Administrator provides such information to the Secretary of Agriculture, the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the areas described in subsection (a), without reimbursement, to be added to the Midewin National Tallgrass Prairie and subject to the terms and conditions, including the limitations on liability, contained in this subtitle. In the event the Secretary of Agriculture declines such offer, the property may be disposed of as the Secretary of the Army would ordinarily dispose of such property under applicable provisions of law. Any sale or other transfer of property conducted pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

CHAPTER 3—OTHER REAL PROPERTY DISPOSALS INVOLVING JOLIET ARMY AMMUNITION PLANT

SEC. 10321. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR A NATIONAL CEMETERY.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Veterans Affairs the parcel of real property at the Arsenal described in subsection (b) for use as a national cemetery.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 982 acres, the approximate legal description of which includes part of sections 30 and 31 Jackson Township, T34N R10E, and part of sections 25 and 36 Channahon Township, T34N R9E, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) SECURITY MEASURES.—The Secretary of Veterans Affairs shall provide and maintain physical and other security measures on the real property transferred under subsection (a). Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to the portion of the Arsenal that is under the administrative jurisdiction of the Secretary of Veterans Affairs and that may endanger health or safety.

(d) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal properties from the Secretary of the Army to the Secretary of Veterans Affairs shall be borne solely by the Secretary of Veterans Affairs.

SEC. 10322. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR A COUNTY LANDFILL.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer, without compensation, to Will County, Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be operated as a landfill by the County.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 455 acres, the approximate legal description of which includes part of sections 8 and 17, Florence Township, T33N R10E, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) CONDITION ON CONVEYANCE.—The conveyance shall be subject to the condition that the Army (or its agents or assigns) may use the landfill established on the real property transferred under subsection (a) for the disposal of construction debris, refuse, and other nonhazardous materials from the restoration and cleanup of the Arsenal property as provided for in this Act. Such use shall be at no cost to the Federal Government.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary of the Army makes the conveyance under subsection (a), if the Secretary of the Army determines that the conveyed real property is not being operated as a landfill or that Will County, Illinois, is in violation of the condition specified in subsection (c), then, at the option of the United States, all right, title, and interest in and to the property, including improvements thereon, shall be subject to reversion to the United States. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property. Any determination of the Secretary of the Army under this subsection shall be made on the record after an opportunity for a hearing.

(e) SURVEYS.—All costs of necessary surveys for the transfer of real property under this section shall be borne by Will County, Illinois.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 10323. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR ECONOMIC DEVELOPMENT.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer to the State of Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be used for economic redevelopment to replace all or a part of the economic activity lost at the Arsenal.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of—

(1) approximately 1,900 acres, the approximate legal description of which includes part of section 30, Jackson Township, Township 34 North, Range 10 East, and sections or parts of sections 24, 25, 26, 35, and 36, Township 34 North, Range 9 East, in Channahon Township, an area of 9.77 acres around the Des Plaines River Pump Station located in the southeast quarter of section 15, Township 34 North, Range 9 East of the Third Principal Meridian, in Channahon Township, and an area of 511 feet by 596 feet around the Kankakee River Pump Station in the Northwest Quarter of section 5, Township 33 North, Range 9 East, east of the Third Principal Meridian in Wilmington Township, containing 6.99 acres, located along the easterly side of the Kankakee Cut-Off in Will County, Illinois, as depicted in the Arsenal Re-Use Concept, and the connecting piping to the northern industrial site, as described by the United States Army Report of Availability, dated 13 December 1993; and

(2) approximately 1,100 acres, the approximate legal description of which includes part of sections 16, 17, 18 Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) CONSIDERATION.—The transfer under subsection (a) shall be made without consideration. However, the transfer shall be subject to the condition that, if the State of Illinois reconveys all or any part of the transferred property to a non-Federal entity, the State shall pay to the United States an amount equal to the fair market value of the reconveyed property. The Secretary of the Army shall determine the fair market value of any property reconveyed by the State as of the time of the reconveyance, excluding the value of improvements made to the property by the State. The Secretary may treat a lease of the property as a reconveyance if the Secretary determines that the lease was used in an effort to avoid operation of this subsection. Amounts received under this subsection shall be deposited in the general fund of the Treasury for purposes of deficit reduction.

(d) OTHER CONDITIONS OF CONVEYANCE.—

(1) REDEVELOPMENT AUTHORITY.—The transfer under subsection (a) shall be subject to the further condition that the Governor of the State of Illinois establish a redevelopment authority to be responsible for overseeing the economic redevelopment of the transferred land.

(2) TIME FOR ESTABLISHMENT.—To satisfy the condition specified in paragraph (1), the redevelopment authority shall be established within 1 year after the date of the enactment of this Act.

(e) REVERSIONARY INTEREST.—During the 20-year period beginning on the date the Secretary of the Army makes the transfer under subsection (a), if the Secretary determines that a condition specified in subsection (c) or (d) is not being satisfied or that the transferred land is not being used for economic development purposes, then, at the option of the United States, all right, title, and interest in and to the property, including improvements thereon, shall be subject to reversion to the United States. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(f) SURVEYS.—All costs of necessary surveys for the transfer of real property under this section shall be borne by the State of Illinois.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary considers appropriate to protect the interests of the United States.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 10331. DEGREE OF ENVIRONMENTAL CLEANUP.

(a) IN GENERAL.—Nothing in this Act shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under provisions of any environmental law.

(b) RESPONSE ACTION.—The establishment of the Midewin National Tallgrass Prairie under chapter 2 and the additional real property transfers and disposals required under chapter 3 shall not restrict or lessen in any way any response action or degree of cleanup under CERCLA or other environmental law, or any response action required under any environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out under the authority of the Secretary of the Army at the Arsenal and surrounding areas, except to the extent otherwise allowable under such laws.

(c) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under chapter 3 shall be carried out in compliance with all applicable provisions of section 120(h) of CERCLA and other environmental laws.

Subtitle D—Miscellaneous Provisions

SEC. 10401. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".

SEC. 10402. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 10403. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

SEC. 10404. COLLECTION OF PARKING FEES.

(a) IN GENERAL.—The Administrator of General Services shall issue regulations requiring each Executive agency to collect fees for the use of all parking facilities provided for the agency at Federal expense.

(b) SPECIFIC REQUIREMENTS.—The regulations—

(1) shall include provisions under which any such user fee shall be computed based on the fair market value of the use of the parking facility involved; and

(2) shall take effect on or before the 90th day after the date of enactment of this Act.

(c) FEES TO BE DEPOSITED IN THE TREASURY.—All user fees collected under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used to pay any user fee collected under this section.

(e) EXECUTIVE AGENCY DEFINED.—In this section, the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code.

Subtitle E—Economic Development Administration and Appalachian Regional Commission

SEC. 10501. SHORT TITLE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Economic Development Partnership Act of 1995".

(b) EFFECTIVE DATE.—Except as otherwise expressly provided, this subtitle and the amendments made by this subtitle shall take effect 6 months after the date of the enactment of this Act.

CHAPTER 1—TRANSFER OF FUNCTIONS OF ECONOMIC DEVELOPMENT ADMINISTRATION

SEC. 10511. REAUTHORIZATION OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

The Public Works and Economic Development Act of 1965 (40 U.S.C. 3131 et seq.) is amended by striking all after the first section and inserting the following:

"SEC. 2. FINDINGS AND DECLARATION.

"(a) FINDINGS.—Congress finds that—

"(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

"(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

"(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

"(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

"(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

"(1) the assistance authorized by this Act should be made available to both rural and urban areas;

"(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

"(3) such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

"TITLE I—ECONOMIC DEVELOPMENT COMMISSION

"SEC. 101. ESTABLISHMENT OF ECONOMIC DEVELOPMENT COMMISSION.

"(a) ESTABLISHMENT.—There is established an Economic Development Commission which shall be an independent establishment in the executive branch.

"(b) APPOINTMENT OF FEDERAL COCHAIRMAN.—The Commission shall headed by a Federal Cochairman of the Economic Development Commission (hereinafter in this Act referred to as the 'Federal Cochairman') who shall be appointed by the President by and with the advice and consent of the Senate.

"(c) DUTIES.—It shall be the duty of the Federal Cochairman to carry out duties vested in the Federal Cochairman under this Act.

"SEC. 102. ESTABLISHMENT OF REGIONAL COMMISSIONS.

"(a) ESTABLISHMENT.—The Federal Cochairman shall establish for each region established by section 106 an Economic Development Regional Commission (hereinafter in this Act referred to as a 'Regional Commission').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—Each Regional Commission shall be composed of 1 Federal member and 1 State member from each participating State in the region represented by the Regional Commission.

"(2) FEDERAL COCHAIRMAN.—The Federal member of each Regional Commission shall be the Federal Cochairman.

"(3) STATE MEMBERS.—Each State member of a Regional Commission shall be the chief executive officer of the State. The State members of a Regional Commission shall elect a Cochairman from among such State members for a term of not less than 1 year.

"(4) ALTERNATES.—

"(A) STATE ALTERNATES.—Each State member of a Regional Commission may have a single alternate appointed by the chief executive officer of the State from among members of the chief executive officer's cabinet or the chief executive officer's personal staff.

"(B) FEDERAL ALTERNATE.—The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman.

"(C) DUTIES.—An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal representative for which he or she is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present.

"(c) DECISIONMAKING.—

"(1) VOTING.—Decisions by a Regional Commission shall require an affirmative vote of the Federal Cochairman (or the Federal Cochairman's alternate) and of the majority of the State members.

"(2) QUORUM.—No decision of a Regional Commission involving Commission policy, developing investment strategies, or allocating funds among States may be made without the Federal Cochairman (or the Federal Cochairman's alternate) and a quorum of the State members present. For purposes of this Act, the Federal Cochairman (or the Federal Cochairman's alternate) and a majority of the State members shall constitute a quorum.

"(d) PAY.—

"(1) FEDERAL COCHAIRMAN.—The Federal Cochairman shall be compensated by the Federal Government at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) FEDERAL COCHAIRMAN'S ALTERNATE.—The Federal Cochairman's alternate shall be compensated by the Federal Government at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, and when not serving as an alternate for the Federal Cochairman shall perform such functions and duties as are delegated by the Federal Cochairman.

"(3) STATE MEMBERS AND THEIR ALTERNATES.—Each State member and the State member's alternate shall be compensated by the State which they represent at the rate established by law of such State.

"SEC. 103. COOPERATION OF FEDERAL AGENCIES.

"Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall cooperate with each Regional Commission

in order to assist the Regional Commission in carrying out the functions of the Regional Commission.

"SEC. 104. ADMINISTRATIVE EXPENSES.

"(a) PAYMENT BY STATES.—Fifty percent of the administrative expenses of a Regional Commission (other than the expenses of the Federal Cochairman) shall be paid by the States in the region represented by the Regional Commission and the remaining 50 percent of such expenses shall be paid by the Federal Government. The expenses of the Federal Cochairman, the Federal Cochairman's alternate, and the Federal Cochairman's staff shall be paid solely by the Federal Government.

"(b) DETERMINATION OF STATE SHARE.—The share of the administrative expenses to be paid by each State shall be determined by the Regional Commission. The Federal Cochairman shall not participate or vote in such determination.

"(c) DELINQUENT PAYMENTS.—No assistance authorized by this Act shall be furnished to any State or to any political subdivision or resident of a State, nor shall the State member of a Regional Commission participate or vote in any determination by the Regional Commission, while such State is delinquent in the payment of such State's share of the administrative expenses of the Regional Commission.

"SEC. 105. ADMINISTRATIVE POWERS.

"To carry out its duties under this Act, consistent with regulations issued by the Federal Cochairman, a Regional Commission may take any of the following actions:

"(1) Adopt, amend, and repeal bylaws and rules governing the conduct of the Regional Commission's business and the performance of its functions.

"(2) Appoint and fix the pay of an executive director and such other personnel as may be necessary to enable the Regional Commission to carry out its functions; except that the compensation for any individual so appointed shall not exceed the rate of basic pay for level V of the Executive Schedule and no member, officer, or employee of the Regional Commission, other than the Federal Cochairman, the Federal Cochairman's alternate, employees of the Federal Cochairman, and any Federal employees detailed under paragraph (3), shall be deemed a Federal employee for any purpose.

"(3) Request the head of a Federal department or agency to detail to temporary duty with the Regional Commission such personnel within the administrative jurisdiction of such head as the Regional Commission may need for carrying out its functions, and each such detail shall be without loss of seniority, pay, or other employee status.

"(4) Arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency.

"(5) Make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefits system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel. The Director of the Office of Personnel Management is authorized to contract with a Regional Commission for continued coverage of any Regional Commission employee who, on a date in the 6-month period ending on the date of Regional Commission employment, was a Federal employee, in the retirement program and other employee benefit programs of the Federal Government.

"(6) Accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible.

"(7) Subject to the requirements of the Federal Property and Administrative Services Act of 1949, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out the Regional Commission's functions and on such terms as the Regional Commission may deem appropriate, with any department, agency, or instrumentality of the United States, or with any person, firm, association, or corporation.

"(8) Take such other actions and incur such other expenses as may be necessary and appropriate.

"SEC. 106. ESTABLISHMENT OF REGIONS.

"(a) IN GENERAL.—For the purposes of this Act, there are established 8 regions of the United States as follows:

"(1) REGION I.—Region I shall be composed of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

"(2) REGION II.—Region II shall be composed of the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

"(3) REGION III.—Region III shall be composed of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

"(4) REGION IV.—Region IV shall be composed of the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

"(5) REGION V.—Region V shall be composed of the State of California.

"(6) REGION VI.—Region VI shall be composed of the States of Alaska, Arizona, Hawaii, Idaho, Nevada, Oregon, and Washington and American Samoa, Guam, the Marshall Islands, Micronesia, and the Northern Mariana Islands.

"(7) REGION VII.—Region VII shall be composed of the States of Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia and the District of Columbia.

"(8) REGION VIII.—Region VIII shall be composed of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and Puerto Rico and the Virgin Islands.

"(b) PARTICIPATION NOT REQUIRED.—No State shall be required to participate in any program under this Act.

"TITLE II—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

"SEC. 201. DIRECT AND SUPPLEMENTARY GRANTS.

"(a) IN GENERAL.—Upon the application of any eligible recipient, a Regional Commission may—

"(1) make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within an area described in section 502(a), if the Regional Commission finds that—

"(A) the project for which financial assistance is sought will directly or indirectly—

"(i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

"(ii) otherwise assist in the creation of additional long-term employment opportunities for such area; or

"(iii) primarily benefit the long-term unemployed and members of low-income families;

"(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located;

"(C) the area for which a project is to be undertaken has an approved investment strategy as provided by section 503 and such project is consistent with such strategy; and

"(D) in the case of an area described in section 502(a)(4), the project to be undertaken will provide immediate useful work to unemployed and underemployed persons in that area; and

"(2) make supplementary grants in order to enable the States and other entities within areas described in section 502(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (c)(4)), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

"(b) COST SHARING.—Subject to subsection (c), the amount of any direct grant under this subsection for any project shall not exceed 50 percent of the cost of such project.

"(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

"(1) AMOUNT OF SUPPLEMENTARY GRANTS.—

"(A) IN GENERAL.—Except as provided by subparagraph (B), the amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Federal Cochairman, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost.

"(B) EXCEPTIONS.—Notwithstanding subparagraph (A)—

"(i) in the case of a grant to an Indian tribe, a Regional Commission may reduce the non-Federal share below the percentage specified in subparagraph (A) or may waive the non-Federal share;

"(ii) in the case of any State or a political subdivision of the State which the Regional Commission determines has exhausted its effective taxing and borrowing capacity, the Regional Commission shall reduce the non-Federal share below the percentage specified in subparagraph (A) or shall waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4); and

"(iii) in case of any community development corporation which the Regional Commission determines has exhausted its effective borrowing capacity, the Regional Commission may reduce the non-Federal share below the percentage specified in subparagraph (A) or waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4).

"(2) FORM OF SUPPLEMENTARY GRANTS.—Supplementary grants shall be made by a Regional Commission, in accordance with such regulations as the Federal Cochairman may prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

"(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in areas described in section 502(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

"(4) DESIGNATED FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—In this subsection, the term 'designated Federal grant-in-aid programs' means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Federal Cochairman may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

"(5) CONSIDERATION OF RELATIVE NEED IN DETERMINING AMOUNT.—In determining the amount of any supplementary grant available to any project under this section, a Regional Commission shall take into consideration the relative needs of the area and the nature of the projects to be assisted.

"(d) REGULATIONS.—The Federal Cochairman shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Federal Cochairman shall consider among other relevant factors—

"(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment; and

"(2) the income levels of families and the extent of underemployment in eligible areas.

"(e) REVIEW AND COMMENT UPON PROJECTS BY LOCAL GOVERNMENTAL AUTHORITIES.—The Federal Cochairman shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

"SEC. 202. CONSTRUCTION COST INCREASES.

"In any case where a grant (including a supplemental grant) has been made by a Regional Commission under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Regional Commission, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

"SEC. 203. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

"In any case where a grant (including a supplemental grant) has been made by a Regional Commission under this title for a project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has decreased because

of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Regional Commission.

"SEC. 204. CHANGED PROJECT CIRCUMSTANCES.

"In any case where a grant (including a supplemental grant) has been made by a Regional Commission under this title for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project based upon the designs and specifications which were the basis of the grant has changed, the Regional Commission may approve the use of grant funds on such changed project if the Regional Commission determines that such changed project meets the requirements of this title and that such changes are necessary to enhance economic development in the area.

"TITLE III—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

"SEC. 301. STATEMENT OF PURPOSE.

"The purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements which remove economic activities from a locality, and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

"SEC. 302. GRANTS BY REGIONAL COMMISSIONS.

"(a) IN GENERAL.—A Regional Commission is authorized to make grants directly to any eligible recipient in an area which the Regional Commission determines, in accordance with criteria to be established by the Federal Cochairman by regulation—

"(1) has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government); or

"(2) has demonstrated long-term economic deterioration.

"(b) PURPOSES.—Amounts from grants under subsection (a) shall be used by an eligible recipient to carry out or develop an investment strategy which—

"(1) meets the requirements of section 503; and

"(2) is approved by the Regional Commission.

"(c) TYPES OF ASSISTANCE.—In carrying out an investment strategy using amounts from grants under subsection (a), an eligible recipient may provide assistance for any of the following:

"(1) Public facilities.

"(2) Public services.

"(3) Business development.

"(4) Planning.

"(5) Research and technical assistance.

"(6) Administrative expenses.

"(7) Training.

"(8) Relocation of individuals and businesses.

"(9) Other assistance which demonstrably furthers the economic adjustment objectives of this title.

"(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—Amounts from grants under subsection (a) may be used in direct expenditures by the eligible recipient or through redistribution by the eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

"(e) COORDINATION.—A Regional Commission to the extent practicable shall coordinate the activities relating to the requirements for investment strategies and making grants and loans under this title with other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

"(f) BASE CLOSINGS AND REALIGNMENTS.—

"(1) LOCATION OF PROJECTS.—In any case in which a Regional Commission determines a need for assistance under subsection (a) due to the closure or realignment of a military installation, the Regional Commission may make such assistance available for projects to be carried out on the military installation and for projects to be carried out in communities adversely affected by the closure or realignment.

"(2) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, a Regional Commission may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

"SEC. 303. ANNUAL REPORTS BY RECIPIENT.

"Each eligible recipient which receives assistance under this title from a Regional Commission shall annually during the period such assistance continue to make a full and complete report to the Regional Commission, in such manner as the Regional Commission shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

"SEC. 304. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

"Any loan, loan guarantee, equity, or other financial instrument in the portfolio of a revolving loan fund, including any financial instrument made available using amounts from a grant made before the effective date of the Economic Development Partnership Act of 1995, may be sold, encumbered, or pledged at the discretion of the grantee of the Fund, to a third party provided that the net proceeds of the transaction—

"(1) shall be deposited into the Fund and may only be used for activities which are consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

"SEC. 305. TREATMENT OF REVOLVING LOAN FUNDS.

"(a) IN GENERAL.—Amounts from grants made under this title which are used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as amounts derived from Federal funds for the purposes of any Federal law after such amounts are loaned from the fund to a borrower and repaid to the fund.

"(b) EXCEPTIONS.—Amounts described in subsection (a) which are loaned from a revolving loan fund to a borrower and repaid to the fund—

"(1) may only be used for activities which are consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

"(c) REGULATIONS.—Not later than 30 days after the effective date of the Economic Development Partnership Act of 1995, the Federal Cochairman shall issue regulations to carry out subsection (a).

"(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants under this title, the Federal Cochairman shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.

"(e) APPLICABILITY TO PAST GRANTS.—The requirements of this section applicable to amounts from grants made under this title shall also apply to amounts from grants made, before the effective date of the Economic Development Partnership Act of 1995, under title I of this Act, as in effect on the day before such effective date.

"TITLE IV—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

"SEC. 401. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—In carrying out its duties under this Act, a Regional Commission may provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment to areas which the Regional Commission finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and

operational assistance, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of such areas.

"(b) PROCEDURES AND TERMS.—

"(1) MANNER OF PROVIDING ASSISTANCE.—Assistance may be provided by a Regional Commission through—

"(A) members of the Regional Commission's staff;

"(B) the payment of funds authorized for this section to departments or agencies of the Federal Government;

"(C) the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or

"(D) grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

"(2) REPAYMENT TERMS.—A Regional Commission, in its discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

"(c) GRANTS COVERING ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—A Regional Commission may make grants to defray not to exceed 75 percent of the administrative expenses of organizations which the Regional Commission determines to be qualified to receive grants-in-aid under subsections (a) and (b); except that in the case of a grant under this subsection to an Indian tribe, the Regional Commission is authorized to defray up to 100 percent of such expenses.

"(2) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of such costs or expenses, a Regional Commission shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

"(3) USE OF GRANTS WITH PLANNING GRANTS.—Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants to assure adequate and effective planning and economical use of funds.

"(d) AVAILABILITY OF TECHNICAL INFORMATION; FEDERAL PROCUREMENT.—A Regional Commission shall aid areas described in section 502(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Regional Commission may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas described in section 502(a) and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

"SEC. 402. ECONOMIC DEVELOPMENT PLANNING.

"(a) DIRECT GRANTS.—

"(1) IN GENERAL.—A Regional Commission may, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including an area described in section 502(a) or an economic development district), make direct grants to such State, city, or other political subdivision, or organization to pay up to 80 percent of the cost for economic development planning.

"(2) PLANNING PROJECTS SPECIFICALLY INCLUDED.—The planning for cities, other political subdivisions, and sub-State planning and development organizations (including areas described in section 502(a) and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes.

"(3) PLANNING PROCESS.—The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

"(4) COORDINATION OF ASSISTANCE UNDER SECTION 401(c).—The assistance available under this section may be provided in addition to assistance available under section 401(c) but shall not supplant such assistance.

"(b) COMPLIANCE WITH REVIEW PROCEDURE.—The planning assistance authorized under this title shall be used in conjunction with any other available Federal

planning assistance to assure adequate and effective planning and economical use of funds.

"TITLE V—ELIGIBILITY AND INVESTMENT STRATEGIES

"PART A—ELIGIBILITY

"SEC. 501. ELIGIBLE RECIPIENT DEFINED.

"In this Act, the term 'eligible recipient' means an area described in section 502(a), an economic development district designated under section 510, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions.

"SEC. 502. AREA ELIGIBILITY.

"(a) CERTIFICATION.—In order to be eligible for assistance under title II, an applicant seeking assistance to undertake a project in an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

"(1) The area has a per capita income of 80 percent or less of the national average.

"(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

"(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(4) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Federal Cochairman determines has one or more of the following conditions:

"(A) A large concentration of low-income persons.

"(B) Rural areas having substantial out-migration.

"(C) Substantial unemployment.

"(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by a Regional Commission unless it is determined to be inaccurate. The most recent statistics available shall be used.

"(c) SPECIAL RULE.—An area which a Regional Commission determines has 1 or more of the conditions described in subsection (a)(4)—

"(1) shall not be subject to the requirements of subparagraphs (A) and (C) of section 201(a)(1); and

"(2) shall not be eligible to meet the requirements of section 510(a)(1)(B).

"(d) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date of the Economic Development Partnership Act of 1995 shall not be effective after such effective date.

"SEC. 503. INVESTMENT STRATEGY.

"A Regional Commission may provide assistance under titles II and III to an applicant for a project only if the applicant submits to the Regional Commission, as part of an application for such assistance, and the Regional Commission approves an investment strategy which—

"(1) identifies the economic development problems to be addressed using such assistance;

"(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments;

"(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (1) and describes how the strategy will solve such problems;

"(4) provides a description of the project necessary to implement the strategy, estimates of costs, and timetables; and

"(5) provides a summary of public and private resources expected to be available for the project.

"SEC. 504. APPROVAL OF PROJECTS.

"Only applications for grants or other assistance under this Act for specific projects shall be approved which are certified by the State member of the Regional Commission representing such applicant and determined by the Federal Cochairman—

"(1) to be included in a State investment strategy approved by the Regional Commission;

"(2) to have adequate assurance that the project will be properly administered, operated, and maintained; and

"(3) to otherwise meet the requirements for assistance under this Act.

"PART B—ECONOMIC DEVELOPMENT DISTRICTS

"SEC. 510. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

"(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, a Regional Commission may—

"(1) designate appropriate 'economic development districts' within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

"(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 502(a);

"(B) the proposed district contains at least 1 area described in section 502(a);

"(C) the proposed district contains 1 or more areas described in section 502(a) or economic development centers identified in an approved district investment strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 502(a) within the district; and

"(D) the proposed district has a district investment strategy which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Regional Commission;

"(2) designate as 'economic development centers', in accordance with such regulations as the Federal Cochairman shall prescribe, such areas as the Regional Commission may deem appropriate, if—

"(A) the proposed center has been identified and included in an approved district investment strategy and recommended by the State or States affected for such special designation;

"(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 502(a) of the district; and

"(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census.

"(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

"(A) the project will further the objectives of the investment strategy of the district in which it is to be located:

"(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

"(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

"(4) subject to the 20 percent non-Federal share required for any project by section 201(c), increase the amount of grant assistance authorized by section 201 for projects within areas described in section 502(a), by an amount not to exceed 10 percent of the aggregate cost of any such project, in accordance with such regulations as the Federal Cochairman shall prescribe if—

"(A) the area described in section 502(a) is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

"(B) the project is consistent with an approved investment strategy.

"(b) AUTHORITIES.—In designating economic development districts and approving district investment strategies under subsection (a), a Regional Commission may, under regulations prescribed by the Federal Cochairman—

"(1) invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

"(2) cooperate with the several States—

"(A) in sponsoring and assisting district economic planning and development groups; and

"(B) in assisting such district groups to formulate district investment strategies; and

"(3) encourage participation by appropriate local governmental authorities in such economic development districts.

"(c) TERMINATION OR MODIFICATION OF DESIGNATIONS.—The Federal Cochairman shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

"(d) DEFINITIONS.—In this Act, the following definitions apply:

"(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' refers to any area within the United States composed of cooperating areas described in section 502(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by a Regional Commission as an economic development district. Such term includes any economic development district designated under section 403 of this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1995.

"(2) ECONOMIC DEVELOPMENT CENTER.—The term 'economic development center' refers to any area within the United States which has been identified as an economic development center in an approved investment strategy and which has been designated by a Regional Commission as eligible for financial assistance under this Act in accordance with the provisions of this section.

"(3) LOCAL GOVERNMENT.—The term 'local government' means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

"(e) PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT WITHIN AREAS DESCRIBED IN SECTION 502(a).— A Regional Commission is authorized to provide the financial assistance which is available to an area described in section 502(a) under this Act to those parts of an economic development district which are not within an area described in section 502(a), when such assistance will be of a substantial direct benefit to an area described in section 502(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 502(a); except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized subsection (a)(4).

"TITLE VI—ADMINISTRATION

"SEC. 601. FUNCTIONS OF ECONOMIC DEVELOPMENT COMMISSION.

"In administering the Economic Development Commission, the Federal Cochairman shall ensure that the Commission—

"(1) serves as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States; and

"(2) helps potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

"SEC. 602. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

"(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Federal Cochairman is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

"(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Federal Cochairman may make provisions for such consultation with interested departments and agencies as

the Federal Cochairman may deem appropriate in the performance of the functions vested in the Federal Cochairman by this Act.

"SEC. 603. ADMINISTRATION, OPERATION, AND MAINTENANCE.

"No Federal assistance shall be approved under this Act unless the Federal Cochairman is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"SEC. 604. TREATMENT OF ECONOMIC DEVELOPMENT ADMINISTRATION EMPLOYEES.

"In considering applications for employment at the Economic Development Commission or in a Regional Commission, preference shall be given to individuals who are employees of the Economic Development Administration on the effective date of the Economic Development Partnership Act of 1995.

"TITLE VII—MISCELLANEOUS

"SEC. 701. POWERS OF FEDERAL COCHAIRMAN.

"(a) IN GENERAL.—In performing the Federal Cochairman's duties under this Act, the Federal Cochairman is authorized to—

"(1) adopt, alter, and use a seal, which shall be judicially noticed;

"(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

"(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Federal Cochairman may deem advisable;

"(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Federal Cochairman;

"(5) under regulations prescribed by the Federal Cochairman, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Federal Cochairman's discretion and upon such terms and conditions and for such consideration as the Federal Cochairman determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Federal Cochairman in connection with assistance extended under this Act, and collect or compromise all obligations assigned to or held by the Federal Cochairman in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

"(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Federal Cochairman determines to be reasonable, any real or personal property conveyed to, or otherwise acquired by the Federal Cochairman in connection with assistance extended under this Act;

"(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to the Federal Cochairman in connection with assistance extended this Act;

"(8) acquire, in any lawful manner and in accordance with the requirements of the Federal Property and Administrative Services Act of 1949, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate to the conduct of the activities authorized under this Act;

"(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Federal Cochairman, take any action, including the procurement of the services of attorneys by contract, determined by the Federal Cochairman to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

"(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

"(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Federal Cochairman or the Federal Cochairman's property;

"(12) make discretionary grants, pursuant to authorities otherwise available to a Regional Commission under this Act and without regard to the requirements of section 504, to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region from the funds withheld from distribution to the Regional Commissions; except that the aggregate amount of such discretionary grants in any fiscal year may not exceed 10 percent of the amounts appropriated under title VIII for such fiscal year; and

"(13) establish such rules, regulations, and procedures as the Federal Cochairman considers appropriate in carrying out the provisions of this Act.

"(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Federal Cochairman.

"(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Federal Cochairman as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

"(d) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Federal Cochairman, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Federal Cochairman pursuant to the provisions of this Act may be exercised by the Federal Cochairman, or by any officer or agent appointed by the Federal Cochairman for such purpose, without the execution of any express delegation of power or power of attorney.

"SEC. 702. ALLOCATION OF FUNDS.

The Federal Cochairman shall establish a formula for the equitable allocation among the Regional Commissions of amounts appropriated to carry out this Act.

"SEC. 703. PERFORMANCE MEASURES.

"The Federal Cochairman shall establish performance measures for grants and other assistance provided under this Act. Such performance measures shall be used to evaluate project proposals and conduct evaluations of projects receiving such assistance.

"SEC. 704. MAINTENANCE OF STANDARDS.

"The Federal Cochairman shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1995.

"SEC. 705. TRANSFER OF FUNCTIONS.

"The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of such Act are hereby vested in the Federal Cochairman.

"SEC. 706. DEFINITION OF STATE.

"In this Act, the terms 'State', 'States', and 'United States' include the several States and each of the other political entities included in a region established by section 106.

"SEC. 707. ANNUAL REPORT TO CONGRESS.

"The Federal Cochairman shall transmit a comprehensive and detailed annual report to Congress of the Federal Cochairman's and each Regional Commission's operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1996. Such report shall be printed and shall be transmitted to Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 708. USE OF OTHER FACILITIES.

"(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Federal Cochairman may delegate to the heads of other departments and agencies of the Federal Government any of the Federal Cochairman's functions, powers, and duties under this Act as the Federal Cochairman may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

"(b) DEPARTMENT AND AGENCY EXECUTION OF DELEGATED AUTHORITY.—Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

"(c) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

"(d) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Federal Cochairman may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the heading 'salaries and expenses' by the Federal Cochairman to the extent necessary to administer the program.

"SEC. 709. PENALTIES.

"(a) FALSE STATEMENTS; SECURITY OVERVALUATION.—Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for such person or for any applicant any financial assistance under this Act or any extension of such assistance by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security for such assistance, or for the purpose of influencing in any way the action of the Federal Cochairman or a Regional Commission or for the purpose of obtaining money, property, or anything of value, under this Act, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"(b) EMBEZZLEMENT AND FRAUD-RELATED CRIMES.—Whoever, being connected in any capacity with the Federal Cochairman or a Regional Commission, in the administration of this Act—

"(1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to such person or pledged or otherwise entrusted to such person;

"(2) with intent to defraud the Federal Cochairman or a Regional Commission or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any false entry in any book, report, or statement of or to the Federal Cochairman or a Regional Commission, or without being duly authorized draws any orders or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

"(3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Federal Cochairman or a Regional Commission; or

"(4) gives any unauthorized information concerning any future action of plan of the Federal Cochairman or a Regional Commission which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Federal Cochairman or a Regional Commission,

shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"SEC. 710. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

"No financial assistance shall be extended by a Regional Commission under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

"(1) certify to the Regional Commission the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Regional Commission for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and

"(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Regional Commission to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Regional Commission determines involves discretion with respect to the granting of assistance under this Act.

"SEC. 711. PERSONAL FINANCIAL INTERESTS.

"(a) IN GENERAL.—Except as permitted by subsection (b), no State member or alternate and no officer or employee of a Regional Commission shall participate personally and substantially as member, alternate, officer, or employee, 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 particular matter in which, to the individual's knowledge, the individual, the individual's spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which the individual is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the individual is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any individual who shall violate the provisions of this subsection shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.

"(b) EXCEPTION.—Subsection (a) shall not apply if the State member, alternate, officer, or employee first advises the Regional Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Regional Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Regional Commission may expect from such State member, alternate, officer, or employee.

"(c) SALARIES.—No State member or alternate of a Regional Commission shall receive any salary, or any contribution to or supplementation of salary for the individual's services on the Regional Commission from any source other than the State of the individual. No individual detailed to serve the Regional Commission under authority of section 105 shall receive any salary or any contribution to or supplementation of salary for the individual's services on the Regional Commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from the Regional Commission. Any individual who shall violate the provisions of this subsection shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both.

"(d) NONAPPLICABILITY TO FEDERAL OFFICIALS.—Notwithstanding any other provision of this section, the Federal Cochairman (or the Federal Cochairman's alternate) and any Federal officers or employees detailed to duty with a Regional Commission pursuant to section 105 shall not be subject to such provisions but shall remain subject to sections 202 through 209 of title 18, United States Code.

"(e) AUTHORITY TO RESCIND CERTAIN AGREEMENTS.—A Regional Commission may, in the Regional Commission's discretion, declare void and rescind any agreement to extend financial assistance under this Act entered into by the Regional Commission in relation to which the Regional Commission finds that there has been a violation of subsection (a) or (c) of this section or any of the provisions of sections 202 through 209 of title 18, United States Code.

"SEC. 712. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

"(a) MAINTENANCE OF RECORD REQUIRED.—The Federal Cochairman shall maintain as a permanent part of the records of the Economic Development Commission a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Economic Development Commission.

"(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

"(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

"(2) The amount and duration of the financial assistance for which application is made.

"(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 713. RECORDS AND AUDIT.

"(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Federal Cochairman shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Federal Cochairman and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"SEC. 714. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

"All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

"SEC. 715. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

"A Regional Commission may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

"TITLE VIII—FUNDING

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS

"There is authorized to be appropriated to carry out this Act $340,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Such sums shall remain available until expended.

"SEC. 802. DEFENSE CONVERSION ACTIVITIES.

"In addition to the appropriations authorized by section 801, there are authorized to be appropriated to carry out this Act such sums as may be necessary to provide assistance for defense conversion activities. Such funding may include pilot projects for privatization and economic development activities for closed or realigned military installations. Such sums shall remain available until expended.".

SEC. 10512. CONFORMING AMENDMENTS.

Title 5, United States Code, is amended—

(1) in section 5314 by adding at the end the following:

"Federal Cochairman of the Economic Development Commission."; and

(2) in section 5316—

(A) by striking the following:

"Administrator for Economic Development."; and

(B) by adding at the end the following:

"Alternate for the Federal Cochairman of the Economic Development Commission.".

SEC. 10513. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this chapter, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this chapter; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This chapter shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance

pending on the date of the enactment of this Act before an office transferred by this chapter, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) SUITS.—This chapter shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this chapter had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this chapter, shall abate by reason of the enactment of this chapter.

(e) CONTINUANCE OF SUITS.—If any officer of the Department of Commerce in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this chapter such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

SEC. 10514. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to an office from which a function is transferred by this chapter—

(1) to the Secretary of Commerce or an officer of the Department of Commerce, is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to the Department of Commerce or an agency in the Department of Commerce is deemed to refer to the department or office to which such function is transferred.

CHAPTER 2—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 10521. FINDINGS AND PURPOSES.

Section 2 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 2) is amended by adding at the end the following:

"(c) 1995 FINDINGS AND PURPOSES.—The Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economies over the past decade have created new problems and challenges for rural areas throughout the Nation and especially for the Appalachian region. It is, therefore, also the purpose of this Act to assist the region in providing the infrastructure necessary for economic and human resource development, in developing its industry, in building entrepreneurial communities, in generating a diversified regional economy, and in making its industrial and commercial resources more competitive in national and world markets. It is further the purpose of this Act to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitive challenge through improving the skills of the region's workforce, adapting and applying new technologies for the region's businesses, and improving the access of the region's businesses to the technical and financial resources necessary to their development. Finally, it is the purpose of this Act to address the needs of severely and persistently distressed and underdeveloped areas of the region so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across this Nation.".

SEC. 10522. MEETINGS.

(a) ANNUAL MEETING REQUIREMENT.—Section 101(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 101(a)) is amended by adding at the end the following: "The Commission shall conduct at least one meeting each year with the Federal Cochairman and at least a majority of the State members present.".

(b) ADDITIONAL MEETINGS BY ELECTRONIC MEANS.—Section 101 of such Act (40 U.S.C. App. 101) is amended—

(1) in subsection (a), as amended by subsection (a) of this section, by adding at the end the following: "The Commission may conduct such additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote."; and

(2) in subsection (c) by striking "to be present" at the end of the fourth sentence.

(c) DECISIONS REQUIRING A QUORUM.—Section 101(b) of such Act (40 U.S.C. App. 101(b)) is amended by striking the third sentence and inserting the following: "No decision involving Commission policy, approval of State, regional, or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, any allocation of funds among the State, or any designation of a distressed county or an economically competitive county may be made without a quorum of State members.".

SEC. 10523. AUTHORIZATIONS FOR ADMINISTRATIVE EXPENSES.

Section 105(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 105(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $3,645,000 per fiscal year for each of fiscal years 1996 through 2000. Such sums shall remain available until expended.

"(2) EXPENSES OF FEDERAL COCHAIRMAN.—Of the amounts appropriated pursuant to paragraph (1), not to exceed $1,245,000 per fiscal year for each of fiscal years 1996 through 2000 shall be available for expenses of the Federal Cochairman, the Federal Cochairman's alternate, and the Federal Cochairman's staff.".

SEC. 10524. ADMINISTRATIVE POWERS OF COMMISSION.

(a) AUTHORITY TO LEASE.—Section 106(7) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 106(7)) is amended—

(1) by inserting "subject to the requirements of the Federal Property and Administrative Services Act of 1949," after "(7)";

(2) by striking "notwithstanding any other provision of law,"; and

(3) by striking "1982" and inserting "2000".

(b) AUTHORITY TO MAINTAIN TEMPORARY OFFICE.—Section 106(8) of such Act (40 U.S.C. App. 106(8)) is amended by inserting "subject to the requirements of the Federal Property and Administrative Services Act of 1949," after "(8)".

SEC. 10525. HIGHWAY SYSTEM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(g) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 201(g)) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $90,000,000 per fiscal year for each of fiscal years 1996 through 2000. Such sums shall remain available until expended.".

(b) COST SHARING.—

(1) IN GENERAL.—Section 201(h)(1) of such Act (40 U.S.C. App. 201(h)(1)) is amended by striking "70 per centum" and inserting "80 percent".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to projects approved after March 31, 1979.

SEC. 10526. COST SHARING OF DEMONSTRATION HEALTH PROJECTS.

(a) OPERATION COSTS.—Section 202(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 202(c)) is amended in the first sentence by striking "100 per centum of the costs thereof" and all that follows through the period at the end of the second sentence and inserting "50 percent of the costs thereof (or 80 percent of such costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226).".

(b) COST SHARING.—Section 202 of such Act (40 U.S.C. App. 202) is amended by adding at the end the following:

"(f) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1995.—After September 30, 1995, not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act; except that such maximum Commission contribution may be increased to 80 percent, or to the percentage of the maximum Federal contribution authorized by this section, whichever is less, for a project to be carried out in a county for which a distressed county designation is in effect under section 226.".

SEC. 10527. REPEAL OF LAND STABILIZATION, CONSERVATION, AND EROSION CONTROL PROGRAM.

Section 203 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 203) is repealed.

SEC. 10528. REPEAL OF TIMBER DEVELOPMENT PROGRAM.

Section 204 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 204) is repealed.

SEC. 10529. REPEAL OF MINING AREA RESTORATION PROGRAM.

Section 205 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 205) is repealed.

SEC. 10530. REPEAL OF WATER RESOURCE SURVEY.

Section 206 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 206) is repealed.

SEC. 10531. COST SHARING OF HOUSING PROJECTS.

(a) LOANS.—Section 207(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 207(b)) is amended by striking "80 per centum" and inserting "50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)".

(b) GRANTS.—Section 207(c)(1) of such Act (40 U.S.C. 207(c)(1)) is amended by striking "80 per centum" and inserting "50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)".

SEC. 10532. REPEAL OF AIRPORT SAFETY IMPROVEMENTS PROGRAM.

Section 208 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 208) is repealed.

SEC. 10533. COST SHARING OF VOCATIONAL EDUCATION AND EDUCATION DEMONSTRATION PROJECTS.

(a) OPERATION COSTS.—Section 211(b)(3) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211(b)(3)) is amended in the first sentence by striking "100 per centum of the costs thereof" and all that follows through the period at the end of the second sentence and inserting "50 percent of the costs thereof (or 80 percent of such costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)."

(b) COST SHARING.—Section 211 of such Act (40 U.S.C. App. 211) is amended by adding at the end the following:

"(c) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1995.—After September 30, 1995, not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act; except that such maximum Commission contribution may be increased to 80 percent, or to the percentage of the maximum Federal contribution authorized by this section, whichever is less, for a project to be carried out in a county for which a distressed county designation is in effect under section 226.".

SEC. 10534. SEWAGE TREATMENT WORKS PROGRAM.

Section 212 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 212) is repealed.

SEC. 10535. REPEAL OF AMENDMENTS TO HOUSING ACT OF 1954.

Section 213 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 213) is repealed.

SEC. 10536. SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS.

(a) AVAILABILITY OF AMOUNTS.—The first sentence of section 214(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(a)) is amended by striking "the President is authorized to provide funds to the Federal Cochairman to be used" and inserting "the Federal Cochairman may use amounts made available to carry out this section".

(b) COST SHARING.—Section 214(b) of such Act (40 U.S.C. App. 214(b)) is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) After September 30, 1995, not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act; except that such maximum Commission contribution

may be increased to 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 226.".

(c) FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—The first sentence of section 214(c) of such Act (40 U.S.C. App. 214(c)) is amended by striking "on or before December 31, 1980,".

(d) LIMITATION ON COVERED ROAD PROJECTS.—The second sentence of section 214(c) of such Act is amended by inserting "authorized by title 23, United States Code" after "road construction".

SEC. 10537. PROGRAM DEVELOPMENT CRITERIA.

(a) CONSIDERATIONS.—Section 224(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 224(a)) is amended by inserting before the semicolon at the end of paragraph (1) the following: "or in a severely and persistently distressed and underdeveloped county or area".

(b) OUTCOME MEASUREMENTS.—Section 224(a) of such Act is further amended—

(1) by striking the period at the end of paragraph (5) and inserting "; and"; and

(2) by adding at the end the following:

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be justified.".

(c) REMOVAL OF LIMITATIONS.—Section 224(b) of such Act (40 U.S.C. App. 224(b)) is amended to read as follows:

"(b) LIMITATION.—No financial assistance made available under this Act may be used to assist establishments relocating from one area to another.".

SEC. 10538. DISTRESSED AND ECONOMICALLY COMPETITIVE COUNTIES.

Part C of title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 221–225) is amended by adding at the end the following:

"SEC. 226. DISTRESSED AND ECONOMICALLY COMPETITIVE COUNTIES.

"(a) DESIGNATIONS.—Not later than 90 days after the effective date of the Economic Development Partnership Act of 1995, and annually thereafter, the Commission, in accordance with such criteria as the Commission may establish, shall—

"(1) designate as 'distressed counties' those counties in the region that are the most severely and persistently distressed and underdeveloped; and

"(2) designate as 'economically competitive counties' those counties in the region which have attained substantial economic parity with the rest of the Nation.

"(b) PERIOD OF EFFECTIVENESS.—In making annual designations under subsection (a), the Commission may discontinue an existing designation at the discretion of the Commission; except that any designation of a distressed county shall remain in effect for the 3-year period beginning on the date of the designation.

"(c) FUNDING PROHIBITION FOR PROJECTS LOCATED IN ECONOMICALLY COMPETITIVE COUNTIES.—

"(1) IN GENERAL.—Except as provided by paragraph (2), no funds may be provided under this Act for a project located in a county for which an economically competitive county designation is in effect under this section.

"(2) EXCEPTIONS.—The prohibition established by paragraph (1) shall not apply to—

"(A) projects on the Appalachian development highway system authorized by section 201;

"(B) local development district administrative projects authorized by section 302(a)(1); or

"(C) discretionary grants authorized by section 302(a).".

SEC. 10539. GRANTS FOR ADMINISTRATIVE EXPENSES AND COMMISSION PROJECTS.

(a) AVAILABILITY OF AMOUNTS.—Section 302(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(a)) is amended—

(1) by striking "The President" and inserting "The Commission"; and

(2) in paragraphs (1), (2), and (3) by striking "to the Commission" each place it appears.

(b) COST SHARING.—Section 302(a) of such Act is further amended—

(1) in paragraph (1) by striking "75 per centum" and inserting "50 percent"; and

(2) by adding at the end the following: "After September 30, 1995, not more than 50 percent of the cost of any activity eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act (or 80 percent of such costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226); except

that discretionary grants by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to such percentage limitations. The aggregate amount of discretionary grants referred to in the preceding sentence in any fiscal year shall not exceed 10 percent of the amounts appropriated under section 401 for such fiscal year.".

(c) REPEALS.—Section 302 of such Act (40 U.S.C. App. 302) is amended—

(1) by striking paragraphs (3) and (4) of subsection (b);

(2) by striking subsection (d); and

(3) by striking subsection (e).

SEC. 10540. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 401) is amended to read as follows:

"SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

"In addition to the appropriations authorized by section 105 for administrative expenses and by section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the Commission to carry out this Act $88,355,000 per fiscal year for each of fiscal years 1996 through 2000. Such sums shall remain available until expended.".

SEC. 10541. EXTENSION OF TERMINATION DATE.

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 405) is amended by striking "1982" and inserting "2000".

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The contents of this title are as follows:

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

Sec. 11001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.
Sec. 11012. Medical care cost recovery authority.
Sec. 11013. Income verification authority.
Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 11015. Home loan fees.
Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revision to prescription drug copayment.
Sec. 11022. Rounding down of cost-of-living adjustments in compensation and DIC rates.
Sec. 11023. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 11024. Enhanced loan asset sale authority.
Sec. 11025. Withholding of payments and benefits.

Subtitle C—Health Care Eligibility Reform

Sec. 11031. Hospital care and medical services.
Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.
Sec. 11033. Prosthetics.
Sec. 11034. Management of health care.
Sec. 11035. Improved efficiency in health care resource management.
Sec. 11036. Sharing agreements for specialized medical resources.
Sec. 11037. Personnel furnishing shared resources.

Subtitle A—Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".

SEC. 11013. INCOME VERIFICATION AUTHORITY.

(a) TITLE 38.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking out "Clause (viii) shall not apply after September 30, 1998" and inserting in lieu thereof "Clause (viii) shall not apply after September 30, 2002".

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".

Subtitle B—Other Matters

SEC. 11021. REVISION TO PRESCRIPTION DRUG COPAYMENT.

(a) INCREASE IN AMOUNT OF COPAYMENT.—Section 1722A(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "$2" and inserting in lieu thereof "$3";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) RECOVERY OF INDEBTEDNESS.—(1) Section 5302 of such title is amended by adding at the end the following new subsection:

"(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.".

(2) The amendment made by paragraph (1) shall apply with respect to amounts that become due to the United States under section 1722A of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 11022. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) FISCAL YEAR 1996 COLA.—(1) Effective as of December 1, 1995, the Secretary of Veterans Affairs shall recompute any increase in an adjustment that is otherwise provided by law to be effective during fiscal year 1996 in the rates of disability compensation and dependency and indemnity compensation paid by the Secretary as such rates were in effect on November 30, 1995. The recomputation shall provide for the same percentage increase as provided under such law, but with amounts so recomputed (if not a whole dollar amount) rounded down to the next lower whole dollar amount (rather than to the nearest whole dollar amount) and with each old-law DIC rate increased by the amount by which the new-law DIC rate is increased (rather than by a uniform percentage).

(2) For purposes of paragraph (1):

(A) The term "old-law DIC rate" means a dollar amount in effect under section 1311(a)(3) of title 38, United States Code.

(B) The term "new-law DIC rate" means the dollar amount in effect under section 1311(a)(1) of title 38, United States Code.

(b) OUT-YEAR COMPENSATION COLAS.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(c) OUT-YEAR DIC COLAS.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

"(2) For purposes of paragraph (1):

"(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

"(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

"(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 11023. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under

any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11024. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 11025. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

"(A) with a compensable service-connected disability;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.".

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out "hospital care and nursing home care" in subparagraphs (A), (B), and (C) and inserting in lieu thereof "hospital care, medical services, and nursing home care";

(B) in paragraph (2), by inserting "and medical services" after "Hospital and nursing home care"; and

(C) by striking out "subsection (a)(1)(G) of this section" each place it appears and inserting in lieu thereof "subsection (a)(1)(F)".

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(2) of this section".

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title),";

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 30 percent or greater.

"(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

"(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

"(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

"(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

"(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

"(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.
"1706. Management of health care: other requirements.".

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out "(c)", and

(ii) striking out "this section, sections" and inserting in lieu thereof "sections 1710,".

(2)(A) The heading of such section is amended to read as follows:

"§ 1703. Annual report on furnishing of care and services by contract".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"1703. Annual report on furnishing of care and services by contract.".

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

"(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or serv-

ices by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "specialized medical resources" and inserting in lieu thereof "health-care resources"; and

(B) by striking out "other" and all that follows through "medical schools" and inserting in lieu thereof "any medical school, health-care provider, health-care plan, insurer, or other entity or individual";

(2) in subsection (a)(2) by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,";

(3) in subsection (b), by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.";

(4) in subsection (d), by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services";

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

(6) by inserting after subsection (d) the following new subsection (e):

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out "8153" and inserting in lieu thereof "8152".

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out "section 8154" and inserting in lieu thereof "section 8153".

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out "section 8153(a)" and inserting in lieu thereof "section 8152(a)"; and

(B) in subsection (b)(3), by striking out "section 8153" and inserting in lieu thereof "section 8152".

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out "section 8157" and "section 8153(a)" and inserting in lieu thereof "section 8156" and "section 8152(a)", respectively; and

(B) in paragraph (1), by striking out "section 8157(b)(4)" and inserting in lieu thereof "section 8156(b)(4)".

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.".

TITLE XII—TRADE

Subtitle A—Technical Corrections and Miscellaneous Trade Provisions

SEC. 12001. PAYMENT OF DUTIES AND FEES.

(a) INTEREST ACCRUAL.—Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) is amended in the second sentence by inserting after "duties, fees, and interest" the following: "or, in a case in which a claim is made under section 520(d), from the date on which such claim is made,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims made pursuant to section 520(d) of the Tariff Act of 1930 on or after April 25, 1995.

SEC. 12002. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)) is amended by striking "(c)(1)(A)" and inserting "(d)(1)(A)".

(b) REQUIREMENT FOR CERTIFICATE FOR IMPORTATION OF ALCOHOLIC LIQUORS IN SMALL VESSELS.—Section 7 of the Act of August 5, 1935 (19 U.S.C. 1707; 49 Stat. 520), is repealed.

(c) MANIFESTS.—Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended in the matter preceding subparagraph (A) by striking "such manifest" and inserting "a vessel manifest".

(d) DOCUMENTATION FOR ENTRY OF MERCHANDISE.—Section 484(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(1)) is amended in the matter preceding subparagraph (A) by striking "553, and 336(j)" and inserting "and 553".

(e) PENALTIES FOR CERTAIN VIOLATIONS.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (a)(1), by striking "lawful duty" and inserting "lawful duty, tax, or fee"; and

(2) in subsections (b)(1)(A)(vi), (c)(2)(A)(ii), (c)(3)(A)(ii), (c)(4)(A)(i), and (c)(4)(B) by striking "lawful duties" each place it appears and inserting "lawful duties, taxes, and fees".

(f) DEPRIVATION OF LAWFUL DUTIES, TAXES, OR FEES.—Section 592(d) of the Tariff Act of 1930 (19 U.S.C. 1592(d)) is amended by striking "or fees be restored" and inserting "and fees be restored".

(g) RECONCILIATION TREATED AS ENTRY FOR RECORDKEEPING.—

(1) Section 401(s) of the Tariff Act of 1930 (19 U.S.C. 1401(s)) is amended by inserting "recordkeeping," after "reliquidation,".

(2) Section 508(c)(1) of such Act (19 U.S.C. 1508(c)(1)) is amended by inserting ", filing of a reconciliation," after "entry".

(h) EXTENSION OF LIQUIDATION.—Section 504(d) of the Tariff Act of 1930 (19 U.S.C. 1504(d)) is amended by inserting ", unless liquidation is extended under subsection (b)," after "shall liquidate the entry".

(i) EXEMPTION FROM DUTY FOR PERSONAL AND HOUSEHOLD GOODS ACCOMPANYING RETURNING RESIDENTS.—Section 321(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(B)) is amended by inserting ", 9804.00.65," after "9804.00.30".

(j) DEBT COLLECTION.—Section 631(a) of the Tariff Act of 1930 (19 U.S.C. 1631(a)) is amended—

(1) by inserting after "law," the following: "including section 3302 of title 31, United States Code, and subchapters I and II of chapter 37 of such title,"; and

(2) by inserting "and the expenses associated with recovering such indebtedness," after "Government,".

(k) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended in paragraphs (3) and (4) by striking "appropriate regional commissioner" and inserting "officer designated pursuant to regulations".

(l) REVIEW OF PROTESTS.—Section 515(d) of the Tariff Act of 1930 (19 U.S.C. 1515(d)) is amended by striking "district director" and inserting "port director".

(m) EFFECTIVE DATE.—The amendments made by this section apply as of December 8, 1993.

SEC. 12003. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) in clause (iv)—

(A) by striking "subparagraph 9802.00.80 of such Schedules" and inserting "heading 9802.00.80 of such Schedule"; and

(B) by striking "and" at the end of clause (iv);

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

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if liquidation of the entry was not final before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the liquidation of the entry was not final before such 15th day.

SEC. 12004. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

SEC. 12005. TECHNICAL AMENDMENTS REGARDING CERTAIN BENEFICIARY COUNTRIES.

(a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(b) ANDEAN TRADE PREFERENCE ACT.—Section 204(c)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(c)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements."

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, and

(2) articles entered after December 31, 1991, and before such 15th day, if the liquidation of the entry of such articles was not final before such 15th day.

SEC. 12006. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking "centralized hub facility or" in clause (i); and

(2) in clause (ii)—

(A) by striking "facility—" and inserting "facility or centralized hub facility—",

(B) by striking "customs inspectional" in subclause (I), and

(C) by striking "at the facility" in subclause (I) and inserting "for the facility".

(b) DEFINITIONS.—Section 13031(b)(9)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(i)) is amended—

(1) by striking ", as in effect on July 30, 1990", and

(2) by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).".

(c) CITATION.—Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking "section 236 of the Tariff and Trade Act of 1984" and inserting "section 236 of the Trade and Tariff Act of 1984".

SEC. 12007. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS.

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amended by adding at the end the following:

"(3)(A)(i) Subject to clause (ii), the Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

"(I) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

"(II) the claimant files a request for such extension with the Customs Service within one year from the last day of the 3-year period referred to in paragraph (1).

"(ii) In the case of a major disaster occurring on or after January 1, 1994, and before the date of the enactment of this paragraph—

"(I) the Customs Service may extend the time for filing the drawback claim for a period not to exceed 1 year; and

"(II) the request under clause (i)(II) must be filed not later than 1 year from the date of the enactment of this paragraph.

"(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

"(C) For purposes of this paragraph, the term 'major disaster' has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).".

SEC. 12008. TREATMENT OF CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), and any other provision of law, the United States Customs Service shall liquidate or reliquidate those entry numbers made at New York, New York, which are listed in subsection (c), in accordance with the final results of the administrative review, covering the period from May 1, 1984, through March 31, 1985, undertaken by the International Trade Administration of the Department of Commerce for such entries (case number A–580–008).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
84–4426808	August 29, 1984
84–4427823	September 4, 1984
84–4077985	July 25, 1984
84–4080859	August 3, 1984
84–4080817	August 3, 1984
84–4077723	August 1, 1984
84–4075194	July 10, 1984
84–4076481	July 17, 1984
84–4080930	August 9, 1984.

SEC. 12009. TEMPORARY DUTY SUSPENSION FOR PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.98.05	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1998 Goodwill Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing event by or on behalf of the foregoing persons or the organizing committee of such event; articles to be used in exhibitions depicting the culture of a country participating in such event; and, if consistent with the foregoing, such other articles as the Secretary of the Treasury may allow	Free	No change	Free	On or before 2/1/99	".

(b) TAXES AND FEES NOT TO APPLY.—The articles described in heading 9902.98.05 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

(c) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 12010. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DRAWBACK AND REFUNDS.—Section 313(s)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1313(s)(2)(B)) is amended by striking "successor" the first place it appears and inserting "predecessor".

(b) TRADE ACT OF 1974.—Section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) is amended by striking "(1)(C)(iii)" and inserting "(1)(D)(iii)".

SEC. 12011. URUGUAY ROUND AGREEMENTS ACT.

Section 405(b) of the Uruguay Round Agreements Act (19 U.S.C. 3602(b)) is amended—

(1) in paragraph (1) by striking "1(a)" and inserting "1(b)"; and

(2) in paragraph (2) by striking "1(b)" and inserting "1(a)".

SEC. 12012. FILING OF CERTIFICATIONS FOR CIVIL AIRCRAFT PARTS.

General Note 6 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting "or electronic" after "shall file a written"; and

(2) by striking "with the appropriate customs officer" and inserting "with the United States Customs Service".

SEC. 12013. EXEMPTION REGARDING CERTAIN VESSEL REPAIRS.

(a) TEMPORARY EXEMPTION EXTENDED.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by this section applies to any entry made after December 31, 1992, and before January 1, 1995.

SEC. 12014. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(a)(5) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(5)) is amended—

(1) in subparagraph (A), by inserting "a place" after "aircraft from"; and

(2) in subparagraph (B), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)".

(b) LIMITATION ON FEES.—Section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)) is amended to read as follows:

"(b) LIMITATIONS ON FEES.—(1)(A) No fee may be charged under subsection (a) of this section for customs services provided in connection with—

"(i) the arrival of any passenger whose journey—

"(I) originated in—

"(aa) Canada,

"(bb) Mexico,

"(cc) a territory or possession of the United States, or

"(dd) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5))), or

"(II) originated in the United States and was limited to—

"(aa) Canada,

"(bb) Mexico,

"(cc) territories and possessions of the United States, and

"(dd) such adjacent islands;

"(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

"(iii) the arrival of any ferry; or

"(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

"(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

"(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.".

(c) FEE ASSESSED ONLY ONCE.—Section 13031(b)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(4)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "No fee" and inserting "(A) No fee"; and

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

"(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be

charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 521 of the North American Free Trade Agreement Implementation Act.

SEC. 12015. TECHNICAL CORRECTION TO CERTAIN CHEMICAL DESCRIPTION.

(a) AMENDMENT TO SUBHEADING 2933.90.02.—The article description for subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States is amended by striking "(Quizalofop ethyl)".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request (which includes sufficient information to identify and locate the entry) filed with the Customs Service on or before the date that is 180 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article that occurred—

(A) after December 31, 1994, and before the date that is 15 days after the date of the enactment of this Act, and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

SEC. 12016. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

(a) IN GENERAL.—Section 304 of the Tariff Act of 1930 (19 U.S.C.1304) is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (i), (j), (k), and (l), respectively, and

(2) by inserting after subsection (e) the following new subsections:

"(f) MARKING OF METAL FORGINGS.—The marking requirements of subsections (a) and (b) shall not apply to—

"(1) metal forgings that—

"(A) are imported for processing into finished hand tools in the United States, and

"(B) have not been improved in condition beyond rough burring, trimming, grinding, turning, hammering, chiseling, or filing; and

"(2) hand tools made from metal forgings described in paragraph (1).

"(g) MARKING OF CERTAIN COFFEE AND TEA PRODUCTS.—The marking requirements of subsections (a) and (b) shall not apply to articles described in subheading 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, or 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

"(h) MARKING OF SPICES.—The marking requirements of subsections (a) and (b) shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000, 1211.90.8040, 1211.90.8050, 1211.90.8090, 2006.00.3000, 2918.13.2000, 3203.00.8000, 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.".

(b) EFFECTIVE DATE.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

SEC. 12017. RELIQUIDATING ENTRY OF WARP KNITTING MACHINES.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 180th day after the date of the enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as duty free Entry No. 100–3022436–3, made on July 12, 1989, at the port of Charleston, South Carolina; and

(2) refund any duties and interest paid with respect to such entry.

SEC. 12018. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

Section 310(a)(1) of the Trade Act of 1974 (19 U.S.C. 2420(a)(1)) is amended by striking "calendar year 1995" and inserting "each of calendar years 1995 through 2000".

Subtitle B—Generalized System of Preferences

SEC. 12101. SHORT TITLE.

This subtitle may be cited as the "GSP Renewal Act of 1995".

SEC. 12102. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

"The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

"(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

"(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

"(a) AUTHORITY TO DESIGNATE COUNTRIES.—

"(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

"(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

"(b) COUNTRIES INELIGIBLE FOR COUNTRY DESIGNATION.—

"(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

"(A) Australia.

"(B) Canada.

"(C) European Union member states.

"(D) Iceland.

"(E) Japan.

"(F) Monaco.

"(G) New Zealand.

"(H) Norway.

"(I) Switzerland.

"(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

"(A) Such country is a Communist country, unless—

"(i) the products of such country receive nondiscriminatory treatment,

"(ii) such country is a WTO Member (as such term is defined in section 2 of the Uruguay Round Agreements Act,) and a member of the International Monetary Fund, and

"(iii) such country is not dominated or controlled by international communism.

"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

"(ii) to cause serious disruption of the world economy.

"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

"(D)(i) Such country—

"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

"(ii) This clause applies if the President determines that—

"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

"(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

"(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

"(1) an expression by such country of its desire to be so designated;

"(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

"(3) the extent to which other major developed countries are extending generalized preferential tariff treatment to such country;

"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic com-

modity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

"(5) whether such country is providing adequate and effective protection of intellectual property rights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services;

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights; and

"(8) the extent to which such country fails to cooperate with the United States in preventing the proliferation of nuclear weapons, nuclear weapons components, and nuclear weapons delivery systems, or in preventing illegal drug trafficking.

A country may be found to not provide adequate and effective protection of intellectual property rights under paragraph (5) and section 503(d)(2)(B), notwithstanding the fact that it may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.

"(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. Except in exceptional circumstances, the President, before taking any action under this subsection, shall provide a period for the submission of public comments on the matter under consideration, and in taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section, and comments received from the public.

"(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

"(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

"(f) CONGRESSIONAL NOTIFICATION.—

"(1) NOTIFICATION OF DESIGNATION.—

"(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

"(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

"(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

"(a) ELIGIBLE ARTICLES.—

"(1) DESIGNATION.—

"(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles for all beneficiary developing countries for purposes of this title by Executive order or Presi-

dential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

"(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except as provided in subsection (b), the President is authorized to designate additional articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

"(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of three years after such denial.

"(2) RULE OF ORIGIN.—

"(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(ii) the sum of—

"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section 506(2), plus

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

"(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

"(i) simple combining or packaging operations, or

"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

"(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

"(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

"(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

"(B) Import-sensitive electronic articles.

"(C) Import-sensitive steel articles.

"(D) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

"(E) Import-sensitive semimanufactured and manufactured glass products.

"(F) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

"(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

"(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

"(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) COMPETITIVE NEED LIMITATION.—

"(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—Except as provided in this paragraph and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(i) a quantity of an eligible article having an appraised value in excess of $75,000,000, except that, in applying this clause, the amount of $75,000,000 shall be increased by $5,000,000 on January 1 of each calendar year after calendar year 1995, or

"(ii) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during the calendar year,

then the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

"(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 506(2), but does include a country which is a member of any such association.

"(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may be redesignated a beneficiary developing country with respect to such article, subject to the considerations set forth in sections 501 and 502, if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

"(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

"(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(ii) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) DE MINIMIS WAIVERS.—The President may disregard subparagraph (A)(ii) with respect to any eligible article from any beneficiary developing country if the appraised value of the total imports of such article into the United States during calendar year 1995 or any calendar year thereafter does not exceed $13,000,000, except that, in applying this subparagraph, the amount of $13,000,000 shall be increased by $500,000 on January 1 of each calendar year after calendar year 1995.

"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

"(C) publishes the determination described in subparagraph (B) in the Federal Register.

"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under section 503(a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORTS TO CONGRESS.

"(a) REPORT ON OPERATION OF TITLE.—On or before July 31, 1997, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(b) ANNUAL REPORTS ON WORKER RIGHTS.—The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

"SEC. 505. DATE OF TERMINATION.

"No duty-free treatment provided under this title shall remain in effect after December 31, 1997.

"SEC. 506. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and reports to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Definitions.".

SEC. 12103. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—

(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and

(2) that was made after July 31, 1995, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

(c) TREATMENT OF CERTAIN ENTRIES OF BUFFALO LEATHER.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, buffalo leather, provided for under subheading 4104.39.20 of the Harmonized Tariff Schedule of the United States, that is a product of Thailand and entered into the United States under entry numbers M42–1113868–8 and M42–1113939–7, shall be liquidated or reliquidated, as appropriate, as if entered on June 30, 1995.

SEC. 12104. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "506(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "506(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "506(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "506(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504(b) of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "506(4)".

Subtitle C—Trade Adjustment Assistance

SEC. 12201. MODIFICATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) REQUIREMENT OF TRAINING.—(1) Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(A) in paragraph (1)(A) and (B) by striking "it is not feasible or appropriate to approve a training program" and inserting "a training program is not available"; and

(B) in paragraph (2)(A) and (B) by striking "it is feasible or appropriate to approve a training program" and inserting "a training program is available".

(2) Section 233(b) of such Act (19 U.S.C. 2293(b)) is repealed.

(3) Paragraph (3) of section 250(d) of the Trade Act of 1974 (19 U.S.C. 2331(d)) is amended—

(A) by striking "it is not feasible or appropriate to approve a training program" in subparagraph (A) and inserting "a training program is not available", and

(B) by striking "notwithstanding the provisions of section 233(b)," in subparagraph (B).

(b) TERMINATION OF RELOCATION ALLOWANCES.—(1) Section 238 of the Trade Act of 1974 (19 U.S.C. 2298), and the item relating to that section in the table of contents for that Act, are repealed.

(2) Section 250(d) of the Trade Act of 1974 (19 U.S.C. 2331(d)) is amended by striking paragraph (5).

(c) TERMINATION OF PROGRAM.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 preceding note) is amended—

(1) in paragraph (1), by striking "1998" and inserting "2000"; and

(2) by amending paragraph (2) to read as follows:

"(2) No assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after September 30, 1998.".

(d) EXTENSION OF AUTHORIZATION.—(1) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking "and 1998" and inserting "1998, 1999, and 2000".

(2) Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(a)) is amended by striking "and 1998" and inserting "1998, 1999, and 2000".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall take effect on October 1, 1996.

INTRODUCTION

Advocates of balancing the Federal budget typically cite the range of economic reasons supporting their case. These economic issues are extremely important; but they should not overshadow a fundamental political point: Balancing the budget is as critical to the functions of government as is balancing powers among the legislative, executive, and judicial branches. It is a necessary principle for governing properly. That is the foremost reason why the Seven-Year Balanced Budget Reconciliation Act of 1995 must become law.

THE POLITICAL IMPERATIVE OF BALANCING THE FEDERAL BUDGET

The importance of this principle traces back to the Founders, as in Jefferson's admonition that the government should be prohibited from borrowing money and running up public debt. Less often noted—though just as important—is Hamilton's declaration in Federalist 30: Money is, with propriety, considered as the vital principle of the body politic; as that which sustains its life and motion and enables it to perform its most essential functions. Thus Hamilton placed public finance firmly in the realm of basic political questions—of conditions of governing.

For most of the Nation's history, the Federal Government sought to balance spending and revenues as a matter of course. This behavior was not tied to any particular statute or written constitutional provision. It was part of what Nobel Laureate James M. Buchanan has termed "our effective constitution," and amounted to a moral imperative: "Up until recent decades, the principle that government should balance its budget in peacetime was, indeed, a part of our effective constitution, even if not formally written down. Before the Keynesian inspired shift in thinking about fiscal matters, it was universally considered immoral to spend without taxing, except in periods of emergency—wars or major depressions. We have lost the moral sense of fiscal responsibility that served to make formal constitutional constraints unnecessary."[1] The value of this quasi-constitutional practice reached beyond its budgetary and economic implications. As the late Professor Aaron Wildavsky has described it, the practice carried with it a sense of balance in political relationships: The doctrine of the balanced budget—a doctrine that became so powerful over time that terrible things were supposed to happen should its boundaries be violated—was far more than an economic theory. It meant—and, to many people, still means—that things are all right. The "balance" referred to was not only between revenue and expenditure but also between social orders. If the competing cultures that make up American life are in balance, mean-

[1] Prepared statement to the House Committee on the Budget, concerning a proposed balanced budget amendment, April 27, 1992.)

ing that they still accept the legitimacy of their uneasy alliance, all is indeed well in the new world.[2]

As long ago as 1967, Professor Buchanan was warning that chronic budget deficits threatened the ability of citizens and their elected representatives to make decisions about their government's priorities. He wrote: How is it possible for the individual to answer the question: How much public goods should I purchase?, if, because of uncertainty concerning the relationship between the two sides of the budget account, the real price to the individual of these public goods is continuously and unpredictably changing?[3] In other words, how can taxpayers judge how much government they want if the cost of government is unrelated to its size? Chronic deficits obscure the relationship. Furthermore, to the extent that government exceeds the size and scope that citizens will ratify with their tax dollars, that portion of the government is illegitimate.

Yet since the early 1970's, when fiscal policy was reformed by the Congressional Budget and Impoundment Control Act, deficit spending has become entrenched, despite politicians' repeated pledges to balance the books. Taxpayers' growing frustration with this failure undoubtedly played a major role in the revolutionary election of 1994, in which voters swept away 40 years of Democrat control in the House of Representatives and installed a Republican House Majority committed to balancing the budget.

THE PRESIDENT'S BELATED REPLY

For a while, President Clinton seemed to ignore the message. His initial budget submission for fiscal year 1996 maintained continued deficit spending of $200 billion a year for as far as the eye could see. In a flourish of economic sophistry and political relativism, administration officials claimed the President's deficits nevertheless were shrinking as a percentage of gross domestic product—as if that made them alright.

Even Bill Clinton couldn't stick with that argument for long. So in midyear, he released a new fiscal plan that he claimed would balance the budget in 10 years—a more reasonable course, he contended, than the Republicans' radical 7-year strategy.

Except that the "new" Clinton plan isn't new at all and doesn't balance the budget. An analysis by the Congressional Budget Office showed the Clinton deficits were still $200 billion a year a more, and were not declining. It is noteworthy that Clinton, in his first State of the Union address, had endorsed the use of CBO numbers as the standard for measuring budget proposals: "Let's at least argue about the same set of numbers so the American people will think we're shooting straight with them," he said. Yet to support his cynical new "balanced" budget claim, Clinton turned to his own Office of Management and Budget to furnish the economic projections on which his plan was based. Administration officials insisted that OMB's figures differed only slightly from CBO's. But this ignores the fact that even slight differences in economic projections lead to hundreds of billions of dollars of difference in government spending demands.

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[2] "The New Politics of the Budgetary Process," 1988.
[3] "Public Finance in Democratic Process," 1967.

Besides, focusing on these allegedly minor differences misses the point. It's not a question of whether OMB or CBO is more accurate in its projections. The point was that as long as the President refused to use the same set of numbers, it was impossible to compare his plan with that of Congress. Hence, the President's 10-year budget collapses like the straw man that it is.

The only real balanced budget plan in Washington is this one.

THE ECONOMIC REASONS

Although the political reasons for balancing the budget are preeminent, the economic issues are not far behind. The problem of current deficit spending is fast becoming a crisis. Consider: The current Federal debt is approximately $4.9 trillion. Interest on the debt is $235 billion. If the growth of government spending is not curtailed, the debt will reach $7.533 trillion by 2005, with interest payments of $412 billion. Over the next 15 years—if current patterns are allowed to continue—accumulated interest payments will total $5.2 trillion. As early as 1997, Americans will pay as much interest on the debt each year—$270 billion—as they pay for national defense.

Even now, Americans are paying for this debt in another way: in the form of interest rates that are about 2 percentage points higher than they would be if the budget were balanced. This adds as much as $37,000 over 30 years to the mortgage on a $75,000 home.

A balanced budget likely will lower current interest rates by about 2 percentage points. This, in turn, will boost economic activity, leading to the following concrete benefits:

It will lead to the creation of 4.25 million more jobs over the next 10 years.

It will increase per capita incomes 16.1 percent.

It will generate $235 billion more revenue for the Federal Government without a tax increase.

It will generate $232 billion more revenue for State and local governments without a tax increase.

To reach balance, this budget achieves $1.157 trillion in deficit reduction over 7 years. By the time the task is complete, in 2002, total Federal spending will be $1.814 trillion, compared with about $1.5 trillion today. Thus, Federal spending will continue to grow, but at a slower rate than under current policies.

KEEPING PROMISES

But the determined pursuit of a balanced budget is much more than a numbers game. It is a catalyst for reevaluating the government down to its core. Getting government back to living within its means requires fundamental, systemic reform—the kind of reform Republicans promised in 1994. The reconciliation bill that reaches the House floor will be a reflection of promises kept, including the following:

Tax relief. The legislation calls for $245 billion in tax reductions over 7 years, including a per-child tax credit for American families and a reduction in the capital gains rate to promote economic growth and job creation.

Reforming welfare. No one questions that the current welfare system needs reform. The system is harmful to the very people it is supposed to help. It shackles them to a life of dependency rather than pushing them toward self-sufficiency. It also shackles taxpayers. Here are some of the facts of this failure:

Welfare spending now exceeds $305 billion a year and has totalled $5 trillion since 1965—more than the cost of winning World War II.

This $305 billion is about three times the amount needed to raise all poor Americans above the poverty line.

Since 1970, the number of children in poverty has increased 40 percent.

Since 1965, the juvenile arrest rate for violent crimes has tripled.

Since 1960, the number of unmarried pregnant teens has nearly doubled and teen suicide has more than tripled.

The House welfare reform plan (H.R. 4, the Personal Responsibility Act of 1995), which passed the House on March 24 and is to be incorporated in this reconciliation act, maintains a safety net that will not entangle its beneficiaries. It renews the basic values of American civilization, emphasizing work, family, and opportunity, and it reestablishes property ownership and full citizenship for the poor. In short, it replaces caretaking with caring.

Preserving, protecting, and strengthening Medicare. This plan will incorporate the House-passed Medicare reform, which will offer more choices to senior citizens and significantly shore up the trust fund that finances Medicare. Neither the President nor the Congressional minority has a legitimate alternative.

Transforming Medicaid. This plan holds Medicaid spending growth to a sustainable rate and shifts the operation of this program where it belongs to State governments. It is consistent with proposals by the Nation's Republican governors.

Keeping the promise of protecting Social Security. This budget makes no changes whatsoever in Social Security benefits.

Calling for real cuts in discretionary spending from the fiscal year 1995 level. The discretionary spending cuts in this bill truly are cuts in the way normal Americans would understand—they reduce spending approximately $150 billion over 7 years from current levels, not from some inflated, bureaucratic estimate of projected spending.

Reforming veterans programs, student loans, agriculture, Federal retirement, and publicly assisted housing. The task of balancing the budget is a shared project, including the efforts of these constituencies.

Eliminating unfair, market-distorting Federal subsidies. Many of the Nation's largest corporations receive Federal grants for work the companies would pursue on their own. In other cases, these funds only promote a cumbersome, backward-looking industrial policy. This reconciliation bill begins to address these outrages.

A Word About the Process

During markup, the Budget Committee minority complained that the reconciliation bill before it was incomplete, because major components were yet to be added. The complaint is not surprising;

those who have no program tend to argue over process. But closer examination shows this process is entirely consistent with statute and House rules.

As explained by the Budget Committee chairman, this act will be written in three stages:

STAGE I

Reported reconciliation recommendations. In this stage, the Budget Committee, on October 12, 1995, assembled and reported legislative recommendations made to it by the various authorizing committees pursuant to their reconciliation directives in the conference report on House Concurrent Resolution 67. It is important to note that, as provided under the 1974 Budget Act, the Budget Committee could not substantively alter the recommendations made to it. The Budget Committee's role was principally ministerial: to package those recommendations and send them on to the Committee on Rules.

STAGE II

Budget enforcement procedures. Under House rules adopted this year, the House Committee on the Budget has jurisdiction over the discretionary spending caps and the pay-as-you-go [PAYGO] mechanism. In a separate action on October 12, the Budget Committee reported an extension of these enforcement measures, which is to be incorporated into a substitute that will be made in order by the Committee on Rules as the base text for reconciliation.

STAGE III

The amendment in the nature of a substitute. Two authorities provide for the Budget Committee chairman to offer such an amendment to be entertained by the Committee on Rules. The 1974 Budget Act states:

> The Committee on Rules in the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

In addition, the conference report on House Concurrent Resolution 67 establishes a procedure under which the chairman of the House Committee on the Budget is to certify whether the reconciliation bill brought to the floor achieves a balanced budget over 7 years.

Under these authorities, the chairman will offer an amendment in the nature of a substitute, which also will be introduced as a freestanding bill. This amendment will incorporate, along with the recommendations already reported: First, relevant additional components that have been, or will have been, acted on separately by the House—for example, Medicare, welfare reform, the Contract with America tax cuts; and second, additional measures needed to bring all committees into compliance with their reconciliation directives and to assure that the reconciliation bill achieves a balanced budget in 7 years.

It is important to note that the two largest components to be added in the substitute—welfare reform and the Medicare plan—have been or will have been voted on separately by the House before Members take up reconciliation. Furthermore, the process of amending reconciliation recommendations reported by the Budget Committee is entirely consistent with the provisions of the Budget Act.

CONCLUSION

As noted above, this reconciliation bill represents a crucial political act—the act of keeping promises made in the 1994 election. The bill balances the budget over 7 years; it reforms welfare; it preserves, protects, and strengthens Medicare; and it provides needed tax relief to American families. This historic act calls for nothing less than a restoration of the American dream—the romantic vision in which families improve their lives through responsibility and hard work; in which the sturdiest safety net is fashioned by communities of neighbors helping neighbors; in which the government operates within its means; and in which every problem is a challenge and an opportunity.

Finally, this act restores hope in the future. It must become law because America's future is not the property of this Congress, or this administration, or any political party. The future belongs to the American people themselves.

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, September 28, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR CHAIRMAN KASICH: On September 19, 1995, the Committee on Banking and Financial Services, approved reconciliation recommendations for programs within the jurisdiction of the Banking Committee pursuant to the reconciliation directives contained in the conference report on House Concurrent Resolution 67 by a vote of 26 to 20. The enclosed material is the legislative language and narrative requirements reflective of the adopted views of the Banking Committee.

The budget resolution instructs the Committee on Banking and Financial Services to report changes in law within its jurisdiction that provide direct spending levels of $13.087 billion in fiscal year 1996, $50.061 billion for fiscal year 1996 through fiscal year 2000, and $65.112 billion for fiscal year 1996 through fiscal year 2002.

The legislative recommendations forwarded by the Banking Committee meet these budget resolution instructions. The committee urges the incorporation of these recommendations into the budget reconciliation act with one caveat.

Since the reporting of these recommendations, the committee has learned from the Congressional Budget Office [CBO] that section 2203(c)(31) as presently drafted may not have the budgetary effect that the committee had expected. This paragraph modifies the Federal Home Loan Bank System's payment to the Resolution Funding Corporation by changing the system's contribution from a flat $300 million payment to 22.63 percent of the system's earnings. At the time of the committee markup, the understanding was that this amendment was revenue neutral. According to a more recent scoring by the CBO, it is not. Therefore, it is requested that this paragraph be amended by replacing "22.63" with a figure to be determined by the CBO which will make this provision revenue neutral.

On behalf of the members of the Banking Committee, I want to express appreciation to you and your committee for the assistance you have given the Banking Committee and hope these recommendations will be of assistance to your committee in meeting the budget reconciliation targets.

Sincerely,

JAMES A. LEACH,
Chairman.

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PURPOSE AND SUMMARY

To comply with the instructions of the conference agreement on the budget resolution (H. Con. Res. 67), which instructs the Committee on Banking and Financial Services to report changes in law within its jurisdiction that provide direct spending levels of $13.087 billion in fiscal year 1996, $50.061 billion for fiscal year 1996 through fiscal year 2000, and $65.112 billion for fiscal year 1996 through fiscal year 2002, the committee makes the following legislative recommendations:

(1) Terminate the RTC and FDIC Affordable Housing Programs;

(2) Eliminate the FHA Assignment Program and Foreclosure Relief Program;

(3) Reform the HUD-owned Multifamily Property Disposition Program;

(4) Recapture rural housing loan subsidies by the Rural Housing and Community Development Service [RHCDS];

(5) Reduce section 8 annual adjustment factors for units without tenant turnover;

(6) Enact a comprehensive solution to the long-term viability problem of the deposit insurance system; and,

(7) Reform the CRA-Community Reinvestment Act.

BACKGROUND AND NEED FOR LEGISLATION

SUBTITLE A—HOUSING PROVISIONS

Sec. 2101. Termination of RTC and FDIC Affordable Housing Programs

The committee recommends the termination of the affordable housing marketing restrictions on the remaining Resolution Trust Corporation [RTC] and the Federal Deposit Insurance Corporation [FDIC] affordable housing inventories and the termination of the Unified Affordable Housing Program of the RTC and FDIC. These recommendations will achieve a savings of $10 million in fiscal year 1996, $31 million in fiscal years 1996 to 2000, and $32 million in fiscal years 1996 to 2002.

The RTC Affordable Housing Program was created in 1989 in title V, subtitle A of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA], which added a new section 21A to the Federal Home Loan Bank Act. Upon the creation of the RTC, FIRREA mandated that the RTC offer for sale certain types of properties to eligible households, nonprofit groups, or public

housing authorities for both single and multifamily housing, during a period of not less than 90 days after first becoming available.

The committee received a GAO report during the 103d Congress that concluded that the "RTC has achieved mixed results in its AHDP [Affordable Housing Disposition Program]." According to the September 1994 audit, RTC had then sold approximately 63 percent of the single-family properties and 54 percent of the multifamily properties through its disposition program. The report indicated that RTC lacked controls to verify that purchasers were eligible to acquire property through the single-family program or were complying with the program's 1-year occupancy requirement. Multifamily projects also lacked sufficient enforcement controls to ensure compliance with set-aside requirements.

Although RTC made some improvement in its performance in the single-family area, significant concerns persist for the multifamily program where:

(i) complete information to assess occupancy status was not available;

(ii) timeframes to encourage multifamily owner compliance were not established;

(iii) enforcement actions were insufficient; and

(iv) protection of land use restriction agreements [LURA] were inadequate.

Opponents of this recommendation argue that termination of the RTC Program is moot, given current statutory requirements to transfer affordable housing functions to the FDIC on October 1, 1995, as well as the RTC's expiration at the end of the 1995 calendar year. The committee, however, recommends termination of both programs since the results achieved have been mixed at best.

This provision assumes that HUD will not incur any additional costs to carry out the remaining functions of the affordable housing program because the RTC committed funds for ongoing monitoring and sales at the time it closed each insolvent institution. The basis of its estimates of losses includes the estimate of net sales proceeds from all assets associated with each insolvent institution, including the subsidy costs of the Affordable Housing Program. Therefore, the committee intends for any obligated amounts associated with ongoing costs of the Affordable Housing Program to transfer from RTC to HUD and spend out over time.

This provision will preserve the obligations of purchasers to abide by the rent limitation, low-income occupancy and other requirements of these affordable housing programs with respect to properties that were sold prior to enactment or sold after enactment under the authority granted to complete transactions in progress or arising out of a letter of intent to purchase. Consequently, the Secretary of the Department of Housing and Urban Development will carry out the remaining authority and responsibilities of the FDIC, including monitoring program compliance. The committee further recommends that HUD, as part of its wind up authority, continue to retain and employ the services of the private sector contractors currently working with the RTC and the FDIC under the Standard Asset Management Disposition Agreements [SAMDA].

Sec. 2102. Elimination of FHA Assignment Program and foreclosure relief

The committee recommends termination of the FHA assignment and temporary mortgage assistance programs, which achieves a savings of $850 million in fiscal year 1996, $1.363 billion in fiscal years 1996 to 2000, and $1.680 billion in fiscal years 1996 to 2002.

The FHA assignment program was created in 1959 but not operational until 1976 after a court consent decree required HUD to implement the program. Subsequently, modifications to the temporary mortgage assistance program and the assignment program required HUD to accept defaulted FHA borrowers into the program provided that their default was based on circumstances beyond their control, such as sickness or loss of employment, and that there was a reasonable expectation that the borrower could resume normal and regular mortgage payments and correct any loan deficiencies within a reasonable time. Currently, the program allows up to 36 months for forbearance workout. Since the majority of assigned loans are insured under the FHA mutual mortgage insurance fund, the cost of the assignment program is financed by the fund, which also insures private lenders against losses on mortgages of one to four housing units.

The committee notes that the well-intentioned objectives of the assignment program are far surpassed by the potential for fraud and abuse of the program that has now led to potentially $1.5 billion in losses to the FHA mutual mortgage insurance fund [MMIF]. Thus, current FHA borrowers are paying higher premiums to meet the capital ratio standards of the MMIF as well as cover the exorbitant costs of the assignment program.

A draft GAO study indicates that there are currently 71,500 loans in the program and that the program "operates at a high cost to FHA's fund and has not been very successful helping borrowers avoid foreclosures in the longrun." Approximately 30 percent of assigned borrowers eventually become current and graduate out of the FHA assignment program, thereby indicating a failure rate of approximately 70 percent.

Furthermore, the report cites fundamental operating flaws that contribute to the borrower's failure to successfully graduate from the assignment program: substantial delinquencies prior to assignment and a 36-month time period that permits delinquencies to grow, even if borrowers are current with repayment agreements. Notwithstanding the 36-month forbearance, GAO discovered that 45 percent of borrowers (31,900) had been in the program longer than 3 years and approximately 1,000 borrowers have been in assignment for over 15 years. The committee notes, however, that termination of the program does not preclude the Secretary from working with lenders in an attempt to provide flexible but perhaps shorter-term forbearance agreements.

Sec. 2103. Reform of HUD-owned Multifamily Property Disposition Program

The committee recommends reforming this program by authorizing HUD to sell HUD-owned multifamily housing projects and HUD-held mortgages without restriction. To expedite this process, HUD may delegate its authority to other parties in order to dispose

of the properties more expeditiously and thereby avoid expensive holding costs. This recommendation achieves a savings of $140 million in fiscal year 1996, $140 million in fiscal years 1996-2000, and $140 million in fiscal years 1996-2002.

In making this recommendation, the committee notes that in April 1994, Congress enacted the Multifamily Property Disposition Reform Act of 1994 which made major reforms to section 203 of the Housing and Community Development Amendments of 1978. These reforms removed many burdensome restrictions that prevented HUD from finding owners who were interested in managing these properties effectively.

Notwithstanding earlier attempts to provide disposition reform, the provisions retained in the act are cumbersome. For example, prior to disposition, the Secretary was required to develop a disposition plan describing minimum terms and conditions for sale and a market analysis of the area. Additionally, the legislation limited the price the Secretary could ask for the project. Finally, the Secretary was required to solicit input from residents as well as the community. While laudable if contained in a preservation program, these provisions effectively hampered the Secretary's ability to make rational business decisions.

In addition to pre-disposition plans, the Secretary was required to provide additional project-based assistance or implement rent restrictions on certain properties. Unfortunately, budget constraints make it impossible to continue assisting buildings through project-based assistance. Additionally, it is unpalatable to provide Federal dollars to properties which are in terrible condition.

The potential dislocation of low-income families should be minimal since HUD has the authority to provide rental assistance vouchers to any person displaced by the sale of these properties.

Sec. 2104. Recapture of rural housing loan subsidies by Rural Housing and Community Development Service

The committee recommends requiring the Rural Housing and Community Development Service [RHCDS], under the Department of Agriculture, to recapture subsidy payments on single family loans authorized under section 502 of the Housing Act of 1949. Recapture provisions were included because taxpayers paid a portion of the mortgage, and therefore, were entitled in part to a portion of the property's appreciation. This recommendation makes recapture of interest credit assistance due upon the repayment of any loan made under this title or upon the disposition or nonoccupancy of the property of the borrower. The recapture provision achieves a savings of $39 million in fiscal year 1996, $39 million in fiscal years 1996-2000, and $39 in fiscal years 1996-2002.

The amount recaptured by the RHCDS is based on a complex formula that primarily accounts for the subsidy provided and the property's appreciation. The recapture amount due can never exceed the amount of subsidy received by the borrower or 78 percent of the value of the property's appreciation. Thus, borrowers who owe large recapture balances at the time of loan payoff are borrowers who have received large subsidies and have experienced significant appreciation in the value of their homes—they are the program success stories.

The recapture provision requires costly and labor-intensive administrative oversight. At the time of refinance or when the loan is paid off, the borrower may pay or defer payment of the recaptured subsidy. If payment is deferred, the Government must subordinate its lien position and establish a noninterest bearing receivable account. Currently, there are approximately 10,750 receivable accounts covering approximately $5.2 billion in subsidy provided on loans either refinanced or repaid that could be recaptured in the future.

Sec. 2105. Reduction of section 8 annual adjustment factors for units without tenant turnover

Currently, owners of section 8 properties receive annual subsidy increases, called annual adjustment factors [AAF's], to account for inflation and costs associated with routine maintenance after an apartment is vacated. The committee recommends decreasing the AAF for units in which there is no tenant turnover during the year. This provision eliminates the payment of excess subsidies to perform unnecessary maintenance. This recommendation achieves a savings of $908 million in fiscal years 1996 to 2000 and $1.272 billion in fiscal years 1996 to 2002. CBO scored this provision as achieving savings of $42 million in fiscal year 1996, $950 million in fiscal years 1996 to 2000, and $1.314 billion in fiscal years 1996 to 2002. However, because the VA/HUD appropriations bill includes this policy change for fiscal year 1996, the Budget Committee does not assume the initial $42 million savings for fiscal year 1996. This $42 million savings is therefore also deducted from our cumulative 5- and 7-year totals.

SUBTITLE B—THRIFT CHARTER CONVERSION

Subtitle B provides for the recapitalization of the savings association insurance fund [SAIF] which insures the deposits of savings associations and is administered by the Federal Deposit Insurance Corporation. The administration has expressed concern about the long-term viability of the SAIF and the ability of SAIF members to pay for the $800 million in interest on obligations issued by the Financing Corporation. Chapter 1 of the subtitle incorporates the administration's proposal to address these deposit insurance concerns.

Under chapter 1, the FDIC is given the authority to assess a one-time fee on deposits insured by the SAIF in order to bring the fund up to the statutorily required reserve ratio of 1.25 percent—$1.25 for each $100 of insured deposits. The SAIF and the bank insurance fund [BIF] are merged on January 1, 1998. Before the funds are merged, however, the subtitle requires that future SAIF assessments be no less than assessments imposed on deposits insured by BIF. Any excess revenue from SAIF assessments would be placed in a special reserve which could not be counted for purposes of determining if the new merged fund is at the required reserve ratio. The budgetary effect of these provisions is a net decrease in direct spending levels of $900 million over 7 years. Finally, the chapter imposes the FICO obligation on all FDIC-insured deposits on January 1, 1996.

As a necessary followup to the merger of the deposit insurance funds and sharing of the FICO obligation, chapter 2 of the subtitle

repeals the Home Owners' Loan Act which provides for the chartering of Federal savings associations and regulation of savings and loan holding companies. The Office of Thrift Supervision is also abolished under the chapter. State chartered thrifts are to be treated as if they were commercial banks for purposes of all Federal banking laws, including the Federal Deposit Insurance Act and the Bank Holding Company Act.

SUBTITLE C—COMMUNITY REINVESTMENT ACT [CRA] AMENDMENTS

Subtitle C results in revenue savings by returning the Community Reinvestment Act to its original purpose of encouraging financial institutions to reinvest in their communities, while not imposing comprehensive credit allocation dictates or unnecessary burdens on banks and savings associations. The budgetary effect of this proposal is a $22 million change—increase—in revenue over the 7-year period. These savings are largely accomplished through the adoption of an exemption for small institutions with assets of less than $100 million from the requirements of CRA and a self-certification procedure for institutions with no more than $250 million in assets. These revisions to the CRA will reduce the amount of agency staff time and personnel that must be devoted to examining compliance with the CRA. Additional savings are achieved from another revision of CRA which moves the opportunity for community comments from the time a financial institution files an application to the time when the institution is examined for compliance with CRA. This results in cost savings because it reduces the number of times that an institution's compliance with CRA must be reviewed and considered.

HEARINGS

On March 8, 1995, the Financial Institutions and Consumer Credit Subcommittee held an open hearing on CRA reform and related issues: The Honorable Joseph P. Kennedy II, House of Representatives; the Honorable Ricki Helfer, Chairman, Federal Deposit Insurance Corporation; the Honorable Eugene A. Ludwig, Comptroller of the Currency; the Honorable Jonathan L. Fiechter, Acting Director, Office of Thrift Supervision; the Honorable Lawrence Lindsey, Governor, Federal Reserve System; Mr. William A. Niskanen, chairman, the Cato Institute; Ms. Lucy H. Griffin, Compliance Management Services; Ms. Cathy Bessant, senior vice president, Nations Bank; Mr. Warren Traiger, CRA practitioner; Mr. Ned Brown, Financial Modeling Concepts.

On March 9, 1995, the Financial Institutions and Consumer Credit Subcommittee held an open hearing on CRA reform and related issues: Mr. James Culberson, Jr., chairman, First National Bank and Trust Co.; Mr. Tony Abbate, chairman, marketing committee, Independent Bankers Association; Mr. Mark Milligan, America's Community Bankers; Mr. Benson F. Roberts, vice president for policy, Local Initiatives Support Corporation; Ms. Michelle Meier, counsel, government affairs, Consumers Union; Ms. Gale Cincotta, chairperson, National People's Action; Mr. John E. Taylor, president and CEO, National Community Reinvestment Coalition; Mr. Allen Fishbein, general counsel, Center for Community

Change; Rev. Charles R. Stith, national president, Organization for a New Equality.

On March 23, 1995, the Financial Institutions and Consumer Credit Subcommittee held an open hearing on BIF–SAIF reform and related issues: The Honorable Richard Carnell, Assistant Secretary of Financial Institutions, Department of Treasury; the Honorable Ricki Helfer, Chairman, Federal Deposit Insurance Corporation; the Honorable Jonathan L. Fiechter, Acting Director, Office of Thrift Supervision; Mr. Robert L. Gramling, Director, Corporate Financial Audits Accounting and Information Management Division, General Accounting Office; Mr. Nicolas P. Retsinas, Federal Housing Finance Board; Mr. Howard McMillan, Jr., American Bankers Association; Mr. Richard L. Mount, president, Independent Bankers Association of America; Mr. David Carson, America's Community Bankers; Mr. Gregory L. Pulles, vice chairman, Association of Financial Services Holding Companies; Mr. James Montgomery, chairman and CEO, Great Western Bank.

On March 24, 1995, the Financial Institutions and Consumer Credit Subcommittee held an open hearing on BIF–SAIF reform and related issues: Mr. Michael T. Crowley, Jr., president and CEO, Mutual Savings Bank; Mr. Joe C. Morris, chairman, Savings Association Insurance Fund, industry advisory committee, Metropolitan Financial Corp.; Mr. Peter Bell, executive vice president for corporate community relations, TCF Financial Corp.; Mr. Thomas M. O'Brien, Community Bankers Association of New York State; Mr. Ed Molnar, president, Harleysville National Bank; Mr. Bert Ely, National Taxpayers Union; Dr. Kenneth H. Thomas, lecturer in finance, Wharton School, University of Pennsylvania; Mr. Samuel L. Foggie, president, National Bankers Association; Mr. Gerard Joab, Local Initiatives Support Corp.

On August 2, 1995, the Financial Institutions and Consumer Credit Subcommittee held an open hearing on BIF–SAIF reform and related issues: The Honorable Alan Greenspan, Chairman, Federal Reserve Board; the Honorable Ricki Helfer, Chairman, Federal Deposit Insurance Corp.; the Honorable John D. Hawke, Under Secretary, Domestic Finance, Department of Treasury; the Honorable Eugene A. Ludwig, Comptroller of the Currency; the Honorable Jonathan L. Fiechter, Acting Director, Office of Thrift Supervision, Mr. James Culberson, Jr., American Bankers Association; Mr. William Sones, vice president, Independent Bankers Association of America; Mr. James Montgomery, chairman and CEO, Great Western Bank; Mr. Jack Schaffer, chairman, American Council of State Savings Supervisors.

SECTION-BY-SECTION ANALYSIS

SUBTITLE A—HOUSING PROVISIONS

Sec. 2101. Termination of RTC and FDIC affordable housing programs

This section repeals the unified Resolution Trust Corporation [RTC]/Federal Deposit Insurance Corporation [FDIC] Affordable Housing Program and transfers windup authority for the RTC/FDIC affordable housing programs to the Department of Housing and Urban Development [HUD]. This section also terminates the

FDIC Affordable Housing Advisory Board and the FDIC Affordable Housing Program (section 40 of the Federal Deposit Insurance Act). Remaining functions and authority in the RTC Affordable Housing Program are transferred to the Secretary of HUD. This includes recapturing excess proceeds from the resale of properties and the monitoring and enforcement of low-income occupancy requirements and rent limitations.

Sec. 2102. Elimination of FHA Assignment Program and foreclosure relief

This section eliminates section 230 of the National Housing Act and prohibits HUD from accepting, by assignment, FHA single family properties into its FHA portfolio for management, servicing, and forbearance workouts.

Sec. 2103. Reform of HUD-owned Multifamily Property Program

This provision authorizes HUD to sell multifamily housing projects that are HUD-owned or have HUD-held mortgages without restrictions. HUD is given authority to delegate this authority to other parties in order to sell the property more quickly.

Sec. 2104. Recapture of rural housing loan subsidies by Rural Housing and Community Development Service

This section provides statutory authority to require the RHCDS to recapture government subsidy payments at the time the borrower refinances or pays off a single family direct loan mortgage. Currently, the RHCDS can only recapture the subsidy at the time the property is disposed or if the unit is not occupied.

Sec. 2105. Reduction of section 8 annual adjustment factors for units without tenant turnover

This section makes permanent a FY 1995 appropriation provision that reduces the Annual Adjustment Factor [AAF] by one percentage point for those Section 8 units in which there has been no tenant turnover since the preceding annual rental adjustment.

SUBTITLE B—THRIFT CHARTER CONVERSION

Chapter 1—Bank Insurance Fund and Savings Association Insurance Fund

Sec. 2200. Short title

Sec. 2201. Special assessment

Section 2201 requires the FDIC to impose a special assessment due on January 1, 1996, on the deposits insured by the savings association insurance fund [SAIF] to bring the SAIF up to the designated reserve ratio of 1.25 percent. The FDIC is given the authority to exempt institutions from the special assessment if the exemption would reduce risk to the SAIF. Such institutions would be required to continue to pay the semiannual assessment rate applicable on June 30, 1995 for the period 1996–99.

It is the intention of the subsection to provide that, in connection with the special premium assessment, the FDIC may set a reduced assessment rate for deposits acquired and held by Oakar banks

which have purchased SAIF deposits and commingled them with institutions deposits insured by the bank insurance fund [BIF]. In its consideration of whether or not to provide a different assessment rate for deposits held by Oakar banks the FDIC is to consider two factors:

(i) the extent to which the deposit base treated as SAIF deposits does not reflect actual deposit base; and

(ii) the ability of an individual Oakar bank to demonstrate its actual deposits notwithstanding the growth attribution rules.

If the FDIC does provide a different assessment rate, the assessment rate cannot be less than two-thirds of the premium assessed on other SAIF-insured thrift deposits.

Oakar banks have paid SAIF premiums based upon a statutorily prescribed formula that in some instances may not reflect an institution's true SAIF deposit base. It is the intention of this section that if inequities exist the FDIC is given the authority to reduce the rate of the special assessment to be imposed on these institutions.

Sec. 2202. Assessments on insured depository institutions

Section 2202 spreads the obligation to make payments to defease the interest obligations on debt issued by the Financing Corporation to all FDIC-insured depository institutions as of January 1, 1996. In addition, the section requires that the deposit insurance assessment rates on SAIF members be no less than the rate imposed on BIF Members.

Sec. 2203. Merger of BIF and SAIF after recapitalization of SAIF

Section 2203 requires the FDIC to merge the BIF and SAIF on January 1, 1998, and establishes a special reserve fund which cannot be taken into account in calculating the reserve ratio of the merged fund. The reserve fund is to be used when the FDIC determines that the reserve ratio is less than 50 percent of the designated reserve ratio and the reserve ratio will likely be less than the designated reserve for each of the four calendar quarters following that determination. In addition, this section modifies the Federal Home Loan Bank System's [FHLBS] REFCORP allocation formula to take into account the merger of the funds. Under the section, the FHLBS contribution to REFCORP is changed from a flat $300 million payment to 22.63 percent of the system's net earnings.

Sec. 2204. Refund of amounts in deposit insurance fund in excess of designated reserve ratio

Section 2204 allows the FDIC to refund any excess semiannual premium assessments when the fund is above the designated reserve ratio.

Sec. 2205. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund

Section 2205 prohibits the FDIC from setting semiannual assessments with respect to the deposit insurance fund, in excess of the amount needed to: First, maintain the reserve ratio of the fund at

the designated reserve ratio or second, if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.

Chapter 2—Status of Banks and Savings Associations

Sec. 2221. Termination of Federal savings associations; treatment of State savings associations as banks for purposes of Federal banking law

Section 2221 rescinds the Federal charter for savings associations. The section requires Federal savings associations to convert to a national bank or State chartered institution by January 1, 1998 or surrender its charter by that date. If they do not voluntarily convert, they are automatically converted to a national bank by operation of law. No new Federal savings association charters may be granted after the date of enactment.

The section also provides that for purposes of the Federal Deposit Insurance Act, the Bank Holding Company Act and the Federal Reserve Act, State savings associations are to be treated as State banks.

Sec. 2222. Treatment of certain activities and affiliations of bank holding companies resulting from this act

Under this section, bank holding companies which were savings and loan holding companies as of September 13, 1995, may maintain or enter into any affiliation or activity which such company was authorized to maintain or enter into as of September 22, 1995, or was authorized to maintain following a merger of insured depository institution subsidiaries pursuant to an application filed no later than that date. To be eligible for the grandfather, the section requires that any insured depository institution or subsidiary of the holding company comply with any lending restrictions which were imposed on it as a savings association, that the institution continue to meet the qualified thrift lending test, if applicable, and that it not be called a national bank—if the institution is a national bank. In addition, the holding company loses its grandfather if it acquires another depository institution or if it is directly or indirectly transferred.

Sec. 2223. Transition provisions for activities of savings associations which convert into or become treated as banks

This section provides a transition period of 5 years during which a savings association which converts to a bank charter can continue to conduct activities in which it was lawfully engaged but which are not permissible for banks. This grandfather also applies to a State savings and loan association that becomes subject to restrictions in Federal law on its activities as of January 1, 1998. The 5-year transition period begins to run from the date a savings association converts to a bank charter or from January 1, 1998, whichever occurs first.

Sec. 2224. Registration of bank holding companies resulting from conversions of savings associations to banks or treatment of savings associations as banks

This section provides that savings and loan holding companies that become bank holding companies as a result of the charter conversion of any savings association or savings bank subsidiary into a bank must register with the Federal Reserve Board. Such holding companies do not have to obtain the approval of the Board to become a bank holding company at the time of the charter conversion provided that such company does not directly or indirectly acquire any additional insured depository institution or other company in connection with the conversion. In addition, this section provides guidance to the Federal Reserve in connection with its exercise of regulatory authority over qualified bank holding companies. It is intended that the Board will regulate qualified bank holding companies in a manner consistent with the current regulation of such companies, including the imposition of capital requirements by the OTS and consistent with safety and soundness.

Sec. 2225. Additional transition provisions and special rules

Section 2225 contains a number of special transition rules to facilitate the conversion of thrifts to banks. First, the section allows mutual savings associations which convert to national banks to maintain their mutual form of ownership and allows any national bank which is organized in mutual form to reorganize as a stock national bank. It also permits the OCC to charter "de novo" mutual national banks. The OCC is directed to apply the current OTS regulations governing mutual charters for 3 years after which time the OCC is directed to promulgate substantially similar regulations. The Federal banking agencies may not adopt or enforce any regulation which contravenes the corporate governance rules prescribed by State law for State banks. Second, the section grandfathers existing thrift intrastate and interstate branches. Third, it requires that if a Federal savings association converts to a national bank charter, membership in the Federal Home Loan Bank System must be maintained. Fourth, it provides savings associations which convert to national banks 3 years to comply with national bank limitations on loans to one borrower.

Sec. 2226. Technical and conforming amendments

This section makes a number of technical and conforming amendments including a clarification that housing creditors may make purchases and enforce alternative mortgage transactions in accordance with OTS regulations issued prior to the effective date of Section 3(f) of the Home Owners' Loan Act.

Sec. 2227. References to savings associations and State banks in Federal law

Under this section, for purposes of all other Federal banking laws, a savings association is deemed to be a reference to a bank.

Sec. 2228. Repeal of Home Owners' Loan Act

This section repeals the Home Owners' Loan Act as of January 1, 1998.

Sec. 2229. Effective date; definitions

Section 2229 makes the effective date of the amendments in this title January 1, 1998. In addition, the banking terms used throughout the title have the same meanings as in the Federal Deposit Insurance Act.

Chapter 3—Transfer of Functions, Personnel, and Property

Sec. 2241. Office of Thrift Supervision abolished

Section 2241 abolishes the Office of Thrift Supervision [OTS] on January 1, 1998.

Sec. 2242. Determination of transferred functions and employees

This section provides for the transfer of OTS employees and property to the Federal Reserve System, the FDIC, and the Comptroller of the Currency.

Sec. 2243. Savings provisions

The section allows for a number of transitional rules concerning lawsuits and administrative rules because of the abolishment of OTS.

Sec. 2244. References in Federal law to Director of the Office of Thrift Supervision

This section states that any reference in any Federal law to OTS shall be deemed a reference to the appropriate Federal banking agency.

Sec. 2245. Reconfiguration of FDIC Board

Section 2245 reconfigures the FDIC Board in light of the abolishment of the Director of OTS. As reconfigured, the FDIC Board will have three members.

Chapter 4—Loan Loss Reserve Treatment

Sec. 2261. Sense of the Congress

This section states that it is the sense of Congress that the bad debt reserve deduction for thrifts should be repealed and that the repeal should be fashioned in such a manner which would neither threaten the economic viability of thrift institutions which convert to bank charters nor cause the Federal treasury to lose revenue.

SUBTITLE C—COMMUNITY REINVESTMENT ACT (CRA) AMENDMENTS

Sec. 2301. Expression of congressional intent

Section 2301 amends the congressional purpose for the CRA by stating that in encouraging financial institutions to meet the credit needs of their communities, regulators shall not impose additional regulatory or paperwork burdens on financial institutions.

Sec. 2302. Community Reinvestment Act exemption

Section 2302 exempts an institution from the examination requirements of the CRA if the institution and the holding company which controls the institution do not have more than $100 million

in assets—which is to be adjusted for inflation—and the institution makes available a notice signed by its President listing the services the institution provides to help meet the needs of the local community and stating that the bank helps meet the credit needs. As provided in section 2307, the implementation of this section cannot result in additional record keeping or reporting requirements. In addition, failure to comply with the requirements of this section shall not result in any liability or give rise to any administrative or private right of action.

Sec. 2303. Self-certification of Community Reinvestment Act compliance

Section 2303 allows a financial institution with no more than $250 million in assets to self-certify compliance with the CRA, provided the institution has not been found to have engaged in a pattern or practice of illegal discrimination under the Fair Housing Act or the Equal Credit Opportunity Act within the past 5 years and has a current CRA rating of "satisfactory" or "outstanding." This section also requires the financial institution to maintain a public notice of self-certification and provides for regulatory review of self-certification reasonableness during each examination for safety and soundness. In addition, this section provides for the institution to be examined for CRA compliance if the institution's self-certification is found to be "not reasonable." If after the regular CRA exam an institution receives a less than "satisfactory" CRA rating, it may not self-certify again for a period of 5 years.

Sec. 2304. Community input and conclusive rating

Section 2304 amends the CRA to establish a new mechanism for community input for an institution's CRA examination by providing the public advance notice in the Federal Register of an institution's CRA examination. After the Federal financial supervisory agency provides such notice and reviews all timely comments, the financial institution is provided a conclusive CRA rating until its next CRA examination. A reconsideration of an institution's rating may be requested within 30 days of the disclosure of the rating to the public.

Under section 2304(c), an institution's CRA record is taken into account in the overall evaluation of the condition of an institution rather than at the time of an application for a deposit facility. Current law requires the regulator to take into consideration an institution's CRA record when it applies for a deposit facility.

Sec. 2305. Special purpose financial institutions

Section 2305(a) requires the appropriate Federal financial supervisory agency, in evaluating the CRA records of special purpose institutions, to take into account the nature of the business of such institutions and the amount of deposits received by such institutions. Subsection (b) defines the term "special purpose institution" to mean a financial institution that does not generally accept deposits in amounts less than $100,000. Such institutions include, but are not limited to, wholesale, credit card and trust institutions.

Sec. 2306. Increased incentives for lending to low- and moderate-income communities

Section 2306 revises the CRA to expand the category of capital investments, loan participations, and other ventures for which an institution can receive CRA credit.

Sec. 2307. Prohibition on additional reporting under community reinvestment act

This section prohibits the Federal financial institution regulators from requiring additional reporting or record keeping from financial institutions as a result of any regulations prescribed under the CRA.

Sec. 2308. Technical amendment

This section makes a technical revision to the CRA to clarify that the requirement applies only to regulated banks with interstate branches.

Sec. 2309. Duplicative reporting

Section 2309 exempts institutions which are members of the Federal Home Loan Bank System from meeting the Federal Home Loan Bank Act's community investment and service requirements if the institution has received a CRA rating of "outstanding" or "satisfactory".

Sec. 2310. Community Reinvestment Act congressional oversight

Section 2310 requires each Federal banking agency to report to Congress by December 31, 1996 and by December 31, 1997, respectively, on the implementation of the CRA regulations prescribed after the date of enactment of H.R. 1858. These reports are to include input from the regulated financial institutions and quantifiable measures of the cost savings of the new CRA regulations and their effectiveness in achieving CRA objectives.

Sec. 2311. Consultation among examiners

Section 2311 is intended to reduce the burden placed on banks as a result of multiple exams by requiring each agency to direct its examiners to consult on examination activities related to an institution and resolve any inconsistencies in the examiners' recommendations. In addition, section 2311 directs that each agency appoint an "examiner-in-charge" who is responsible for consultation with all examiners of an institution.

Sec. 2312. Limitation on regulations

Section 2312 provides that no CRA regulation may be promulgated which would require financial institutions to make loans to any uncreditworthy person that would jeopardize the safety and soundness of the institution. In addition, no regulation prescribed under the CRA shall require a financial institution to make a loan on the basis of any discriminatory criteria prohibited under any U.S. law. It also clarifies that no regulation shall prevent or hinder in any way a financial institution's full responsibility to provide credit to all segments of its community. Finally, it clarifies that these regulations shall encourage financial institutions to extend

credit to all creditworthy persons, consistent with safety and soundness.

COMMITTEE CONSIDERATION AND VOTES

(Rule XI, Clause 2(l)(2)(B))

On September 19, 1995 the committee met in open session to mark up the Budget Reconciliation recommendations. The committee considered as original text for purposes of amendment a committee print.

During the markup the committee approved by recorded vote one amendment to the committee print. The committee also defeated by recorded vote seven amendments. The following amendment was adopted by recorded vote.

An amendment offered by Mr. Stockman to allow housing creditors to offer certain alternative mortgage transactions despite State law to the contrary passed 25–14.

YEAS	NAYS
Mr. Leach	Mr. Gonzalez
Mr. McCollum	Mr. LaFalce
Mrs. Roukema	Mr. Frank
Mr. Bereuter	Mr. Kennedy
Mr. Roth	Mr. Flake
Mr. Baker	Ms. Waters
Mr. Lazio	Mr. Orton
Mr. Bachus	Mrs. Maloney
Mr. Castle	Ms. Roybal-Allard
Mr. King	Mr. Barrett
Mr. Royce	Mr. Wynn
Mr. Weller	Mr. Watt
Mr. Hayworth	Mr. Ackerman
Mr. Metcalf	Mr. Bentsen
Mr. Bono	
Mr. Ehrlich	
Mr. Barr	
Mr. Chrysler	
Mr. Cremeans	
Mr. Fox	
Mr. Heineman	
Mr. Stockman	
Mr. LoBiondo	
Mr. Watts	
Mrs. Kelly	

The following amendments were defeated by recorded vote.

An amendment offered by Mr. Kennedy to strike section 2101 which terminates RTC and FDIC affordable housing programs was defeated 19–21.

YEAS	NAYS
Mr. Bachus	Mr. Leach
Mr. Gonzalez	Mrs. Roukema
Mr. LaFalce	Mr. Bereuter
Mr. Frank	Mr. Roth

Mr. Kanjorski	Mr. Lazio
Mr. Kennedy	Mr. Castle
Mr. Flake	Mr. King
Ms. Waters	Mr. Royce
Mr. Sanders	Mr. Lucas
Mrs. Maloney	Mr. Weller
Mr. Gutierrez	Mr. Hayworth
Ms. Roybal-Allard	Mr. Bono
Mr. Barrett	Mr. Ney
Ms. Velazquez	Mr. Ehrlich
Mr. Wynn	Mr. Cremeans
Mr. Watt	Mr. Fox
Mr. Hinchey	Mr. Heineman
Mr. Ackerman	Mr. Stockman
Mr. Bentsen	Mr. LoBiondo
	Mr. Watts
	Mrs. Kelly

An amendment offered by Mr. Kennedy to strike section 2103 which terminates a HUD-owned multifamily property disposition program was defeated 22–24.

YEAS	NAYS
Mr. Fox	Mr. Leach
Mr. Gonzalez	Mr. McCollum
Mr. Lafalce	Mrs. Roukema
Mr. Vento	Mr. Bereuter
Mr. Schumer	Mr. Roth
Mr. Frank	Mr. Baker
Mr. Kanjorski	Mr. Lazio
Mr. Kennedy	Mr. Bachus
Mr. Flake	Mr. Castle
Mr. Mfume	Mr. King
Ms. Waters	Mr. Royce
Mr. Orton	Mr. Lucas
Mr. Sanders	Mr. Weller
Mrs. Maloney	Mr. Metcalf
Ms. Roybal-Allard	Mr. Bono
Mr. Barrett	Mr. Ney
Ms. Velazquez	Mr. Ehrlich
Mr. Wynn	Mr. Barr
Mr. Watt	Mr. Chrysler
Mr. Hinchey	Mr. Heineman
Mr. Ackerman	Mr. Stockman
Mr. Bentsen	Mr. LoBiondo
	Mr. Watts
	Mrs. Kelly

An amendment offered by Mr. Sanders to strike section 2104 which recaptures rural housing loan subsidies was defeated 19–22.

YEAS	NAYS
Mr. LaFalce	Mr. Leach
Mr. Vento	Mr. McCollum
Mr. Schumer	Mrs. Roukema
Mr. Frank	Mr. Bereuter

Mr. Kanjorski	Mr. Roth
Mr. Kennedy	Mr. Baker
Mr. Flake	Mr. Lazio
Mr. Mfume	Mr. Castle
Ms. Waters	Mr. King
Mr. Orton	Mr. Royce
Mr. Sanders	Mr. Lucas
Mrs. Maloney	Mr. Weller
Ms. Roybal-Allard	Mr. Bono
Mr. Barrett	Mr. Ney
Ms. Velazquez	Mr. Barr
Mr. Wynn	Mr. Chrysler
Mr. Watt	Mr. Fox
Mr. Hinchey	Mr. Heineman
Mr. Bentsen	Mr. Stockman
	Mr. LoBiondo
	Mr. Watts
	Mrs. Kelly

An amendment offered by Mr. McCollum to rescind Federal deposit insurance for State savings and loan associations was defeated 15–20.

YEAS	NAYS
Mr. Leach	Mrs. Roukema
Mr. McCollum	Mr. Bachus
Mr. Bereuter	Mr. Royce
Mr. Roth	Mr. Bono
Mr. Baker	Mr. Barr
Mr. Lazio	Mr. Stockman
Mr. Castle	Mr. LoBiondo
Mr. King	Mr. Watts
Mr. Weller	Mr. Gonzalez
Mr. Hayworth	Mr. LaFalce
Mr. Metcalf	Mr. Vento
Mr. Ehrlich	Mr. Kennedy
Mr. Chrysler	Mr. Flake
Mrs. Kelly	Ms. Mfume
Mr. Orton	Ms. Waters
	Ms. Roybal-Allard
	Ms. Velazquez
	Mr. Wynn
	Mr. Watt
	Mr. Bentsen

An amendment offered by Mr. Bereuter to strike the bill's requirement that small banks provide public notices of the types of credit and services they provide to their local communities thereby restoring the bill's CRA provisions to the language passed by the committee as part of H.R. 1858 was defeated by a rollcall vote of 20 ayes to 26 nays.

YEAS	NAYS
Mr. McCollum	Mr. Leach
Mrs. Roukema	Mr. Lazio
Mr. Bereuter	Mr. Castle

Mr. Roth
Mr. Baker
Mr. Bachus
Mr. King
Mr. Royce
Mr. Weller
Mr. Hayworth
Mr. Metcalf
Mr. Bono
Mr. Ehrlich
Mr. Barr
Mr. Chrysler
Mr. Cremeans
Mr. Fox
Mr. Heineman
Mr. LoBiondo
Mrs. Kelly

Mr. Stockman
Mr. Watts
Mr. Gonzalez
Mr. LaFalce
Mr. Vento
Mr. Frank
Mr. Kennedy
Mr. Flake
Mr. Mfume
Ms. Waters
Mr. Orton
Mr. Sanders
Mrs. Maloney
Mr. Gutierrez
Ms. Roybal-Allard
Mr. Barrett
Ms. Velazquez
Mr. Wynn
Mr. Fields
Mr. Watt
Mr. Hinchey
Mr. Ackerman
Mr. Bentsen

An amendment offered by Mr. Kennedy to strike subtitle C which makes a number of amendments to the Community Reinvestment Act was defeated by a rollcall vote of 20 ayes to 24 nays.

YEAS

Mr. Gonzalez
Mr. LaFalce
Mr. Vento
Mr. Kanjorski
Mr. Kennedy
Mr. Flake
Mr. Mfume
Ms. Waters
Mr. Orton
Mr. Sanders
Mr. Gutierrez
Ms. Roybal-Allard
Mr. Barrett
Ms. Velazquez
Mr. Wynn
Mr. Fields
Mr. Watt
Mr. Hinchey
Mr. Ackerman
Mr. Bentsen

NAYS

Mr. Leach
Mr. McCollum
Mrs. Roukema
Mr. Bereuter
Mr. Roth
Mr. Baker
Mr. Bachus
Mr. Castle
Mr. King
Mr. Royce
Mr. Weller
Mr. Hayworth
Mr. Metcalf
Mr. Bono
Mr. Ehrlich
Mr. Barr
Mr. Chrysler
Mr. Cremeans
Mr. Fox
Mr. Heineman
Mr. Stockman
Mr. LoBiondo
Mr. Watts
Mrs. Kelly

An amendment offered by Mr. Chrysler to change the name of the Community Reinvestment Act to the Urban, Suburban, and Rural Loan Program was defeated 19–27.

YEAS	NAYS
Mr. Leach	Mrs. Roukema
Mr. McCollum	Mr. Castle
Mr. Bereuter	Mr. King
Mr. Roth	Mr. Metcalf
Mr. Baker	Mr. LoBiondo
Mr. Bachus	Mr. Watts
Mr. Royce	Mrs. Kelly
Mr. Lucas	Mr. Gonzalez
Mr. Weller	Mr. LaFalce
Mr. Hayworth	Mr. Vento
Mr. Bono	Mr. Kanjorski
Mr. Ney	Mr. Kennedy
Mr. Ehrlich	Mr. Flake
Mr. Barr	Mr. Mfume
Mr. Chrysler	Ms. Waters
Mr. Cremeans	Mr. Orton
Mr. Fox	Mr. Sanders
Mr. Heineman	Mr. Gutierrez
Mr. Stockman	Ms. Roybal-Allard
	Mr. Barrett
	Ms. Velazquez
	Mr. Wynn
	Mr. Fields
	Mr. Watt
	Mr. Hinchey
	Mr. Ackerman
	Mr. Bentsen

After adopting the committee print as amended, a motion to submit recommendations for budget reconciliation in the committee print to the Budget Committee passed 26–20.

YEAS	NAYS
Mr. Leach	Mr. Gonzalez
Mr. McCollum	Mr. LaFalce
Mrs. Roukema	Mr. Vento
Mr. Bereuter	Mr. Kanjorski
Mr. Roth	Mr. Kennedy
Mr. Baker	Mr. Flake
Mr. Bachus	Mr. Mfume
Mr. Castle	Ms. Waters
Mr. King	Mr. Orton
Mr. Royce	Mr. Sanders
Mr. Lucas	Mr. Gutierrez
Mr. Weller	Ms. Roybal-Allard
Mr. Hayworth	Mr. Barrett
Mr. Metcalf	Ms. Velazquez
Mr. Bono	Mr. Wynn
Mr. Ney	Mr. Fields
Mr. Ehrlich	Mr. Watt

Mr. Barr
Mr. Chrysler
Mr. Cremeans
Mr. Fox
Mr. Heineman
Mr. Stockman
Mr. LoBiondo
Mr. Watts
Mrs. Kelly

Mr. Hinchey
Mr. Ackerman
Mr. Bentsen

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 1995.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the reconciliation recommendations of the House Committee on Banking ad Financial Services.

The estimate shows the budgetary effects of the committee's proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Reconciliation Recommendations of the House Committee on Banking ad Financial Services.

3. Bill status: As approved by the House Committee on Banking and Financial Services on September 19, 1995.

4. Bill purpose: *Deposit Insurance Funds.* The bill would make a number of changes that would affect insured depository institutions and the financial regulatory agencies, including the Federal Deposit Insurance Corporation [FDIC], the Office of the Comptroller of the Currency [OCC], the Office of Thrift Supervision [OTS], and the Board of Governors of the Federal Reserve System. It would:

Require members of the Savings Association Insurance Fund [SAIF] to pay a one-time assessment on January 1, 1996, in an amount sufficient to boost reserves of the fund to 1.25 percent of insured deposits; allow certain banks that hold thrift deposits a discount of up to one-third of the rate that other SAIF-

insured institutions are assessed; and allow financially weak thrifts to pay the special assessment over 4 years;

Require institutions insured by the Bank Insurance Fund [BIF] to join SAIF-insured members in paying a proportional share of the annual interest payment on bonds issued by the Financing Corporation [FICO];

Merge the BIF and the SAIF on January 1, 1998, and until such time, require SAIF-insured institutions to pay insurance premiums at least equal to the premiums paid by BIF-insured institutions;

Resrict the use of any surplus reserves that accumulate in the SAIF through January 1998, but allow the FDIC to refund excess reserves in the BIF and in the new deposit insurance fund created by the BIF–SAIF merger;

Abolish Federal thrift charters as of January 1, 1998, requiring each Federal savings association to convert to a national bank charter or to become a state-chartered thrift or bank;

Abolish OTS, transferring its responsibilities to the agencies that regulate and examine federally-chartered banks [OCC] and State-chartered banks and thrifts [FDIC and Federal Reserve]; and

Reduce the number of directors on the board of the FDIC from five to three.

The Federal Housing Administration's [FHA's] Single-Family Assignment Program. Section 2102 would prohibit the Department of Housing and Urban Development [HUD] from providing foreclosure avoidance relief to mortgagors who have defaulted in making payments on a FHA-insured single-family mortgage.

FHA Multifamily Property Disposition. Section 2103 would enable HUD to dispose of multifamily properties held in its inventory without providing any rental assistance upon the sale of these properties.

Rent Adjustment for Section 8 Housing. Section 2105 would reduce rent increases for units receiving assistance under section 8 of the United States Housing Act, which authorizes rental assistance payments on behalf of low-income tenants.

Rural Housing Loan Subsidies. Section 2104 would amend the Rural Housing Act of 1949 to require the immediate payment of a portion of the interest subsidies by the borrower upon the repayment of a single-family housing loan made by the Department of Agriculture.

Affordable Housing Programs. The bill would end various programs of the Resolution Trust Corporation [RTC] and the FDIC that make housing available to low- and very-low-income persons, and also would terminate the Affordable Housing Advisory Board. Any remaining responsibilities associated with the affordable housing programs of the RTC and the FDIC, as well as the task of enforcing low-income occupancy requirements, would be transferred to HUD.

Payments to the Resolution Funding Corporation [REFCORP]. The Federal Home Loan Bank [FHLB] system is a government-sponsored enterprise consisting of 12 district banks that make low-cost loans to home mortgage lenders. Since 1989, the FHLB's have had to pay $300 million annually to REFCORP to support interest

payments on bonds issued to help finance the resolution of the savings and loan crisis. The proposal would eliminate the requirement that the FHLB's make a fixed $300 million payment and would instead require them to contribute 22.63 percent of their net earnings each year to pay part of the interest due to REFCORP bondholders.

Community Reinvestment Act. Subtitle C would reduce the examination requirements specified in the Community Reinvestment Act [CRA]. The bill would exempt most financial institutions with assets of up to $100 million (indexed for inflation) from examinations for compliance with CRA. In addition, institutions with assets over $100 million but not more than $250 million (also indexed) would be allowed to certify their own compliance, making them subject to less frequent and less stringent examinations.

5. Estimated cost to the Federal Government: Table 1 summarizes the budgetary effects of these proposals for the 1996–2002 period. In total, CBO estimates the committee's proposals would reduce direct spending by about $4 billion, and would increase revenues by $22 million over the 1996–2002 period. The bill would also provide for potential discretionary savings of $473 million over the next 7 years, but that amount would be subject to appropriations action.

TABLE 1. BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON BANKING AND FINANCIAL SERVICES

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CHANGES IN DIRECT SPENDING							
Deposit Insurance Funds:							
Estimated Budget Authority	.....	.....	.....	.....	.....	.....	.....
Estimated Outlays	−5,000	400	800	800	700	700	700
FHA Single-Family Assignment Program:							
Estimated Budget Authority	−850	−108	−117	−134	−154	−159	−159
Estimated Outlays	−850	−108	−117	−134	−154	−159	−159
FHA Multifamily Property Disposition:							
Estimated Budget Authority	[1] −140	.....	.....	.....	.....	.....	.....
Estimated Outlays	[1] −140	.....	.....	.....	.....	.....	.....
Rent Adjustment for Section 8 Housing:							
Estimated Budget Authority	.....	.....	.....	.....	.....	.....	.....
Estimated Outlays	[2] −42	−219	−248	−231	−210	−189	−175
Rural Housing Loan Subsidies:							
Estimated Budget Authority	−39	.....	.....	.....	.....	.....	.....
Estimated Outlays	−39	.....	.....	.....	.....	.....	.....
RTC Affordable Housing Program:							
Estimated Budget Authority	−31	.....	.....	.....	.....	.....	.....
Estimated Outlays	−10	−10	−8	−2	−1	−1	.....
Treasury Payment to REFCORP:							
Estimated Budget Authority	.....	.....	7	11	15	16	16
Estimated Outlays	.....	.....	7	11	15	16	16
Total Estimated Changes in Direct Spending:							
Estimated Budget Authority	−1,060	−108	−110	−123	−139	−143	−143
Estimated Outlays	−6,081	63	434	444	350	367	382
CHANGES IN REVENUES							
Federal Reserve Surplus	2	3	3	3	3	4	4

TABLE 1. BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON BANKING AND FINANCIAL SERVICES—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CHANGES IN SPENDING SUBJECT TO APPROPRIATIONS							
Rent Adjustment for Section 8 Housing:							
Estimated Authorization Level	−40	−50	−65	−90	−92	−93	−94
Estimated Outlays	−1	−17	−41	−65	−75	−84	−91
FDIC Affordable Housing Program							
Estimated Authorization Level	−15	−15	−15	−15	−15	−15	−15
Estimated Outlays	−9	−15	−15	−15	−15	−15	−15

[1] This table shows changes relative to current law. If the VA/HUD appropriation bill is enacted before this provision, and if it permits HUD to sell multifamily properties in fiscal year 1996 without providing any rent subsidy, the reconciliation provision would produce savings of $100 million in 1996, instead of $140 million.

[2] If the VA/HUD appropriation bill is enacted before this provision, and if it includes a similar provision applying only to fiscal year 1996, the reconciliation provision would produce no savings in 1996.

The budgetary impact of this bill falls within budget functions 370, 600, and 900.

6. Basis of estimate: This estimate assumes that the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

DIRECT SPENDING

Deposit Insurance Funds. Under the bill's provisions, CBO estimates that savings and loan institutions would pay over $6 billion in 1996 to ensure that the SAIF's reserves would reach $1.25 for each $100 of insured deposits. While the precise amount of payments will depend upon the reserve balance at the end of 1995, as well as on the FDIC's estimate of future losses, we expect that thrifts would be assessed about 85 cents per $100 of domestic deposits to recapitalize the fund. Because net 1996 assessments under current law would be about $0.9 billion, we estimate that the one-time special assessment would increase collections by $5.2 billion in 1996.

The additional assessment income would be partially offset by decreases in collections for two reasons—lower premiums paid by thrifts in subsequent years and rebates paid to banks in 1996. These offsets, which are discussed below, would total $4.3 billion, resulting in net savings of $0.9 billion over the 1996–2002 period.

TABLE 2. THE BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS AFFECTING THE DEPOSIT INSURANCE FUNDS

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
BIF and SAIF Spending Under Current Law:								
Estimated Budget Authority	.....	.....	.....	.....	.....	.....	.....	.....
Estimated Outlays	−8,000	−2,400	−1,700	−2,200	−1,800	−1,100	−1,600	−1,700
Proposed Changes:								
Estimated Budget Authority	.....	.....	.....	.....	.....	.....	.....	.....
Estimated Outlays	.....	−5,000	400	800	800	700	700	700
BIF and SAIF Spending Under Proposal:								
Estimated Budget Authority	.....	.....	.....	.....	.....	.....	.....	.....
Estimated Outlays	−8,000	−7,400	−1,300	−1,400	−1,000	−400	−900	−1,000

Under current law, CBO estimates that the SAIF would be fully recapitalized late in 2002 and that thrifts would be paying premiums of about $0.8 billion a year into the SAIF until that time. With the one-time assessment required by this bill, net thrift premiums would drop to $0.4 billion in 1997 and to less than $0.1 billion thereafter. Thus, the special assessment would accelerate the payment of insurance premiums that thrifts make to the SAIF—from annual payments through 2002 (under current law) to a one-time payment in 1996 (as required by the bill). Aggregate thrift premiums retained by the deposit insurance funds over the 7-year period would be higher than under current law by an estimated $1.1 billion for three reasons: the thrift deposit base would probably be greater; less of the thrifts' premiums would be siphoned off to pay FICO interest; and premium rates for SAlF-insured institutions would be slightly higher than would otherwise be necessary because they would have to equal rates paid by BIF-insured institutions.

The bill would authorize the FDIC to refund assessment premiums in excess of the reserve ratio required under current law, or $1.25 per $100 of insured deposits. CBO expects that the FDIC would credit $0.2 billion against the premiums that BIF members otherwise would pay in 1996, resulting in a loss of premiums of that amount.

The bill would allow the FDIC to reduce by as much as one-third the amount of the special assessment paid by certain banks that have deposits insured by the SAIF—primarily the so-called Oakar banks. However, this provision requires that the net budgetary effect of such a reduction in the amount paid by Oakar banks be budget-neutral. Therefore, CBO assumes that the FDIC would increase the rate charged to the non-Oakar banks to make up for any shortfall to ensure that the fund balance would still reach the target of $1.25 for each $100 of insured deposits.

Another provision of the bill would require the FDIC to set rates for insurance premiums sufficient only to maintain the reserves of the insurance fund at the statutory level. This provision would have no significant cost relative to the CBO baseline, which assumes losses sufficiently large that the FDIC would not face a situation in the immediate future where it would collect no premiums. If future insurance losses are very low, however, the provision could result in the FDIC setting premiums at zero for all insured institutions, effectively eliminating the risk-based system used to determine premiums for deposit insurance. Assessing deposit premiums based on the risk posed to the insurance funds creates an incentive for institutions to minimize their risks, thereby also minimizing potential losses to the insurance funds. Thus, eliminating this incentive could result in greater long-run costs to the FDIC.

Because the bill would abolish Federal thrift charters in 1998, some 1,200 institutions would be forced to become federally chartered banks or State-chartered institutions, or to terminate their charters. Closing the OTS would eliminate that agency's costs of examining and regulating Federal savings and loans, but these costs would be spread among the three remaining Federal regulators—the FDIC, the Federal Reserve, and the OCC, depending upon which charter each institution adopts. CBO cannot predict

how institutions will behave if their Federal charter is abolished, but we would expect that they would consider a number of factors, including regulatory costs, tax consequences, and issues affecting the various powers offered by the different Federal and State banking charters. Institutions switching to charters regulated by the FDIC and the OCC would pay higher fees or premiums to cover the costs associated with any increase in workload, resulting in no net budgetary impact.

FHA Provisions. Two of the bill's provisions would affect the spending and receipts of the Federal Housing Administration [FHA]. The estimated budgetary effects are summarized in table 3.

TABLE 3. THE BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS TO ELIMINATE THE FHA SINGLE-FAMILY ASSIGNMENT PROGRAM AND TO REFORM MULTIFAMILY PROPERTY DISPOSITION

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Spending Under Current Law—								
FHA Liquidating Accounts: [1]								
Estimated Budget Authority	−862	−930	−1,740	−1,832	−762	−351	−351	−351
Estimated Outlays	−937	−1,005	−1,815	−2,086	−1,110	−682	−682	−682
Proposed Changes—Single-Family Assignment Program:								
Estimated Budget Authority	.....	−850	−108	−117	−134	−154	−159	−159
Estimated Outlays	.....	−850	−108	−117	−134	−154	−159	−159
Multifamily Property Disposition:								
Estimated Budget Authority	.....	−140	.....	.....	.....	.....	.....	.....
Estimated Outlays	.....	−140	.....	.....	.....	.....	.....	.....
Total Changes:								
Estimated Budget Authority	.....	−990	−108	−117	−134	−154	−159	−159
Estimated Outlays	.....	−990	−108	−117	−134	−154	−159	−159
Spending Under Proposals—FHA Liquidating Accounts								
Estimated Budget Authority	−862	−1,920	−1,848	−1,949	−896	−505	−510	−510
Estimated Outlays	−937	−1,995	−1,923	−2,203	−1,244	−836	−841	−841

[1] These spending figures represent net spending from FHA's Mutual Mortgage Insurance and General Insurance/Special Risk Insurance liquidating accounts. These accounts include both income and expenses incurred. The programs affected by the reconciliation provisions account for only a portion of these two accounts.

Elimination of FHA's Single-Family Assignment Program. Under current law, FHA provides an alternative to foreclosure for certain borrowers who have become delinquent on their mortgage payments. To assist these eligible borrowers, FHA pays a full claim to the mortgagee, takes assignment of the mortgage, and provides the borrower with up to 3 years of financial relief by reducing or suspending the borrower's mortgage payments. According to HUD, over 50 percent of those borrowers who enter the assignment program for the full 3 years do not recover financially and eventually go to foreclosure. The Mutual Mortgage Insurance liquidating account incurs the costs associated with losses from guarantees funded prior to fiscal year 1996.

Section 2102 of this bill would eliminate the assignment program, enabling HUD to foreclose quickly on properties that would otherwise enter the assignment program. CBO estimates that more rapid foreclosure would reduce HUD's costs by decreasing the amount of taxes and other expenses that HUD would pay while

holding these properties. Early foreclosures also would expedite the receipt of sales revenues that HUD would collect on the affected properties.

CBO estimates that, under current law, about 90,000 properties from guarantees made prior to fiscal year 1996 will enter the assignment program over the next 10 years. We also estimate that about 16 percent of all claims from new loan guarantees will eventually enter the assignment program. Based on information provided by HUD, we estimate that eliminating the assignment program would decrease HUD's losses on mortgages that would otherwise enter that program by an average of 30–40 percent of the unpaid balances. CBO estimates that this increase in recoveries would result in about $1.7 billion in savings over the next 7 years, when measured on a present value basis as required by the Federal Credit Reform Act of 1990.

Part of these savings—about $800 million in fiscal year 1996—represents the decrease in subsidy costs associated with guarantees issued prior to fiscal year 1996. This amount would be reflected as a reduction in direct spending in fiscal year 1996. The remaining savings—about $900 million—represent the net decrease in subsidy costs of loan guarantees in 1996 and subsequent years. Such guarantees result in offsetting receipts on the budget because the credit subsidies are estimated to be negative, and the estimated change in those receipts would be recorded in the years that new loans are guaranteed.

FHA Multifamily Property Disposition. Under current law, when selling properties acquired through defaults on FHA-insured mortgages, HUD must provide long-term rental assistance through its section 8 program to about 85 percent of the units in subsidized properties and 15 percent of the units in unsubsidized properties. Given this requirement, CBO estimates that, under current law, HUD will dispose of about 90,000 multifamily units over the fiscal years 1996–2002. We expect that about 5,000 units will enter the inventory each fiscal year and that over the 7-year period FHA's General and Special Risk Insurance liquidating account will incur holding costs of about $390 million.

Section 2103 of this bill would enable HUD to sell properties without providing any section 8 assistance upon disposition. CBO estimates that eliminating the rental assistance requirement would enable HUD to sell about 11,000 additional units over the 1996–2002 period. HUD would save on its holding costs as a result of these additional property sales and, in accordance with scorekeeping procedures for credit programs, the savings associated with earlier sales and decreased holding costs would result in decreased credit subsidies, estimated on a present value basis. CBO estimates that eliminating the requirement for long-term rental assistance would result in $140 million in savings from more rapid property disposition. That savings would be recorded in fiscal year 1996.

Rent Adjustment for Section 8 Housing. Section 8 of the United States Housing Act of 1937 provides for an annual adjustment in the maximum rents that owners receive on behalf of assisted tenants. The bill would make permanent a provision enacted in the appropriations act for 1995 that reduces by 1 percentage point rent

increases for units occupied by the same families at the time of the last annual rental adjustments. Because the government pays part of these rental costs, CBO estimates that this provision would save the government $42 million in 1996 and $1.3 billion over the 1996–2002 period on subsidies for existing rental contracts. CBO estimates that this provision would affect between 80 percent and 85 percent of assisted units in a given year—about 1.9 million in 1996. The number of units would drop significantly each year as contracts expire, declining to about 400,000 by 2002. The savings related to existing contracts would be considered direct spending savings because they would affect outlays from budget authority provided in previous years.

Savings that would result from application of this provision to future new contracts or contract renewals would depend on annual appropriation levels and thus would not be considered direct spending. Assuming that annual funding for renewing expiring contracts would continue at the 1995 level of $2.1 billion, CBO estimates that this provision would produce savings from future appropriations of $374 million over the 1996–2000 period.

Recapture of Rural Housing Loan Subsidies. The Rural Housing Act of 1949 authorizes the U.S. Department of Agriculture to provide subsidized direct mortgage loans to low-income households for the purchase of single-family residences. Current law requires the borrowers to repay the Federal Government a portion of the subsidy upon nonoccupancy or disposition of the property. Section 2104 of the bill would require that recaptured subsidies be repaid when the loan is satisfied.

We estimate that this provision would result in outlay savings of $39 million for fiscal year 1996 to the liquidating account of the Rural Housing Insurance Fund. The outlay effect is the discounted present value of the estimated changes in annual payments to the Treasury, as required by the Federal Credit Reform Act of 1990.

Estimates of subsidy repayments were based on information for the past 5 years provided by the Rural Housing and Community Development Service. The provision is likely to reduce the number of borrowers who refinance loans because of the requirement that subsidies be repaid. The estimated budgetary savings reflects this factor.

Affordable Housing Programs. The bill would eliminate the affordable housing programs of the RTC and the FDIC, while transferring to HUD responsibility for selling properties already in the pipeline and monitoring compliance. Including subsidies associated with sales of single-family and multifamily RTC properties sold below market prices, plus the cost of administering, holding and financing these properties, CBO estimates that eliminating the affordable housing programs would reduce direct spending by $10 million in 1996, and by $31 million over the 1996–2002 period.

Payments to REFCORP. The FHLB's pay $300 million annually to REFCORP for interest on bonds issued to finance the resolution of the savings and loan crisis. The bill would change the amount paid annually by the FHLB's to REFCORP from $300 million to 22.63 percent of each home loan bank's annual net earnings beginning in 1998. As a result, CBO estimates that beginning in 1998

and extending through 2002, the FHLB's payments to REFCORP would decrease by $65 million.

Currently, the FHLB's do not earn enough income from their core business alone to cover the fixed $300 million payment and pay a market return to their shareholders. As a result, they have increased the size of their investment portfolios significantly. With the REFCORP payment converted from a fixed to a proportional obligation, CBO expects that the FHLB's would reduce the size of their investment portfolios. The effect would be to reduce the Federal Government's exposure to potential risk from this government-sponsored enterprise, but also to reduce the net earnings of the FHLB's, thus resulting in lower payments to REFCORP. This shortfall would be paid by the Treasury, which has responsibility for paying the difference between the total interest owed to bondholders annually—$2.6 billion—and the amount paid by the FHLB's. Hence, Federal outlays would increase by $65 million over the 1998–2002 period.

REVENUES

Regulatory Costs of the Federal Reserve. The CRA provisions would result in less frequent and less stringent examinations, thereby increasing revenues by decreasing the operating costs of the Federal Reserve System. Based on information provided by staff members of the Board of Governors of the Federal Reserve System, we estimate that the CRA changes would enable the Federal Reserve to save $22 million in examination costs from 1996 to 2002. Because the Federal Reserve System remits its surplus to the Treasury, those reductions in costs would raise governmental receipts, or revenues, by the same amount.

CBO estimates that terminating the Federal thrift charter and the Office of Thrift Supervision would not significantly affect the examination costs of the Federal Reserve. The Federal Reserve would become responsible for examining thrifts that convert to a State charter and also choose to become members of the Federal Reserve System. But we expect that relatively few thrifts would come under the purview of the Federal Reserve. In addition, savings and loan holding companies would become bank holding companies, which are also examined by the Federal Reserve, but we expect that those additional costs to the Federal Reserve would be insignificant.

Taxation of Bad Debt Reserves of Thrifts. By terminating the Federal charter for thrift institutions, the bill could affect revenues from the corporate income tax. Thrift institutions receive preferential tax treatment of their bad debt reserve, and many might be subject to increased taxes upon becoming banks. The Joint Committee on Taxation would estimate such a revenue effect for the Congress, but an estimate for this provision is not available at this time.

SPENDING SUBJECT TO APPROPRIATIONS

The FDIC's affordable housing program is discretionary and subject to appropriation action. Spending under current law is projected to total about $15 million annually, based on the 1995 appropriations. The bill would eliminate the program.

7. Estimated cost to State and local governments: CBO estimates that one provision of the House Banking Committee's reconciliation recommendations for fiscal year 1996 would have a direct impact on State governments. This provision would require federally chartered savings associations to convert to a national bank charter or a State depository institution charter, or to liquidate the institution. To the extent these 1,200 institutions convert to a State charter, the costs of administering State banking laws would increase. CBO cannot predict how many will choose to become State chartered institutions, but we would expect that they would consider a number of factors, including regulatory costs, tax consequences, and issues affecting the various powers offered by the different Federal and State banking charters.

According to the Conference of State Bank Supervisors [CSBS], there were approximately 32,000 financial institutions (including 12,400 banks, savings and loans, and credit unions) subject to regulation by the States in 1993. Based on information provided by CSBS, CBO estimates that states will spend approximately $300 million to regulate all of these institutions in fiscal year 1996. Even if all 1,200 of the institutions affected by this provision choose to convert to a State charter—which we think is unlikely—the cost increase to States should be less than $10 million a year. Furthermore, any increases would be offset by examination fees and annual assessments on assets.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Federal Cost Estimate: Deposit Insurance, RTC, and REFCORP—Mary Maginniss, Douglas Hamilton; FHA—Susanne Mehlman, Carla Pedone; Housing Subsidies—Brent Shipp, Carla Pedone; Federal Reserve—Mark Booth; State and Local Estimate—Marc Nicole.

11. Estimate approved by: Robert A. Sunshine for Paul Van de Water, Assistant Director for Budget Analysis.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incoroprated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI and clause 4(c)(2) of rule X of the Rules of the House of Representatives.

TITLE III—COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, October 6, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: I am transmitting herewith the recommendations of the Committee on Commerce for changes in laws within its jurisdiction, excluding recommendations for Medicare and Medicaid, pursuant to the provisions of section 310 of the Congressional Budget Act of 1974 and section 105(a)(2)(B)(iii) of House Concurrent Resolution 67, the Concurrent Resolution on the Budget—Fiscal Years 1996 to 2002. The committee's recommendations for Medicare and Medicaid will be transmitted to you separately.

The enclosed recommendations were embodied in a series of committee prints adopted by the committee on September 13, 1995 and September 19, 1995. Pursuant to your instructions, the legislative language of these committee prints has been incorporated into Title III as follows:

Subtitle A: Communications; subtitle B: Nuclear Regulatory Commission Annual Charge; subtitle C: United States Enrichment Corporation; subtitle D: Waste Isolation Pilot Project; subtitle E: Naval Petroleum Reserves; and subtitle F: Department of Commerce Abolition. Also enclosed is the accompanying report language and a Ramseyer submission.

Regrettably, as of this date, the committee has not yet received the official cost estimate for Title III from the Congressional Budget Office. Despite this fact, the Commerce Committee does not wish to delay your committee's consideration of the fiscal year 1996 Omnibus Budget Reconciliation Act. I am, therefore, transmitting the committee's recommendations at this time with the understanding that the Commerce Committee will be permitted to submit additional material with respect to the cost estimate if warranted after the Congressional Budget Office transmits their cost estimate.

If you have any questions concerning the committee's recommendations, or if I can be of any further assistance to you as you proceed with the committee's deliberations, please do not hesitate to contact me.

Sincerely,

THOMAS J. BLILEY, Jr.,
Chairman.

Enclosures.

[Editor's note: References to subtitle F in the transmittal letter and report language submitted by the Committee on Commerce apply to title XVII in this document, the Department of Commerce Abolition.]

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SUBTITLE A—COMMUNICATIONS

PURPOSE AND SUMMARY

Chapter 1 of Subtitle A extends the authority (through fiscal year 2002) and expands the scope for which the Federal Communications Commission [FCC] may use the competitive bidding process (spectrum auctions) for the awarding of licenses. It continues the requirement that licenses be for mutually exclusive applications. Further, it exempts from these requirements licenses or construction permits by public safety radio services and initial licenses or construction permits for advanced television [ATV].

Chapter 1 also requires the FCC to complete all actions necessary to permit the assignment of licenses by September 30, 2002, of 100 megahertz [MHz] of spectrum located below 3 gigahertz not previously designated for auction or for reallocation by the National Telecommunications and Information Administration [NTIA]. If the FCC cannot provide for effective relocation of incumbent licensees, it is required to notify the NTIA of suitable government spectrum needed for relocating current license holders. The NTIA would be required to identify spectrum allocated to the Federal government for reallocation to meet the commercial relocation needs.

Further, Chapter 1 requires the NTIA to identify and designate for reallocation to the FCC a single frequency band of 20 megahertz of spectrum under 3 gigahertz. The FCC is required then to schedule an auction for this reallocated spectrum within one year.

Chapter 2 of Subtitle A amends the Communications Act of 1934 to authorize appropriations for the FCC and for other purposes. This Chapter authorizes an appropriation of $186,000,000 for fiscal year 1996, with additional sums as may be required for necessary nondiscretionary cost increases. In addition, it authorizes the Commission to expand licensing fees from telecommunications entities in order to cover the costs of certain regulatory activities. The legislation also clarifies certain provisions of the Communications Act of 1934 (the Communications Act) and the Commission's authority under the Act.

BACKGROUND AND NEED FOR LEGISLATION

Chapter 1—Spectrum Auctions

Management of the spectrum

The radio spectrum is the portion of the electromagnetic spectrum used specifically for wireless communications, commonly ranging between 10 kilohertz and 300,000 megahertz. The use of a frequency at a given location usually precludes the use of that frequency, and perhaps certain surrounding frequency, from being used by others in the same geographic area.

Federal coordination and management of the radio spectrum in the United States, and the granting of exclusive and non-exclusive licenses for its use, are divided between the Federal Communications Commission [FCC] and the President. The Communications Act of 1934 provides the authority to assign radio frequencies to

the FCC except for those radio stations belonging to the Federal Government. Specifically, section 301 of the Communications Act designates that one of the general purposes of the Act is to "maintain the control of the United States, over all the channels of radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and the periods of the license."

Section 305 assigns the President the authority to assign frequencies for Federal Government stations. Section 103(b)(1)(A) of the National Telecommunications and Information Administration Organization Act, as authorized by Public Law 102–538, designates the Assistant Secretary for Communications and Information with the Department of Commerce, also known as the Administrator of the National Telecommunications and Information Administration [NTIA], with the authority delegated to the President to assign frequencies to radio stations or classes of stations owned and operated by the U.S. Government. The NTIA is obligated to establish policies concerning the allocation, allotment, and assignment of spectrum for Federal use. The NTIA utilizes the Indepartmental Radio Advisory Committee [IRAC] to establish priorities and encourage efficient spectrum use by Federal Government users.

Spectrum auctions

The Omnibus Budget Reconciliation Act of 1993 [OBRA 93] required the Commerce Department [NTIA] to identify 200 megahertz [MHz] of radio spectrum currently used by the Federal Government for reallocation to the private sector. In February 1994, the NTIA released its Preliminary Spectrum Reallocation Report identifying 50 MGz for immediate reallocation and proposed 150 MHz for later reallocation. In February of this year, the NTIA released its Spectrum Allocation Final Report to conclude the identification process. Furthermore, the 1993 Act authorized the FCC to auction rights to portions of spectrum for certain services. The Commission's use of the auction is limited to situations where there are mutually exclusive applications for an initial license and the service is to be offered as a subscription service. Thus, licenses for free, over-the-air broadcast remain exempt. The competitive bidding process is intended to promote the rapid development of new technologies, products and services to be made available to the public.

Since 1993, the FCC has conducted four spectrum auctions: two for narrowband Personal Communications Services [PCS] licenses; one for Interactive Video and Data Service [IVDS] licenses; and one for broadband PCS licenses. The four auctions have produced a total of almost $9 billion for the general fund of the U.S. Treasury. The nationwide narrowband PCS auction that was completed in July 1994 generated $617 million. A subsequent regional narrowband auction raised $395 million. The IVDS auction raised $214 million. The auction of broadband PCS spectrum yielded commitments for receipts totaling $7.1 billion.

The FCC's competitive bidding authority, as authorized by OBRA 93, lasts for 5 years and will expire at the end of fiscal year 1998.

Because of the success of the auction process, in March 1995, the committee approved H.R. 1218, which extended the FCC's auction authority for an additional 2 years through the end of fiscal year 2000. H.R. 1218 was ordered reported by the full committee on March 15, 1995, and reported to the House on March 23, 1995 (H. Rept. 104–88).

The committee finds that the success of the past spectrum auction plans warrants their extension and broadening of scope until 2002. The revenue generated by the extension will provide a badly needed source of income for the Federal Government and, more importantly, will continue the process of efficient licensing of the radio spectrum. As significantly, extending and broadening the competitive bidding process will continue to advance the goal of increasing the rapid deployment of new technologies and services for consumers.

Chapter 2—Federal Communications Commission Authorization

The Federal Communications Commission was established with the passage of the Communication Act of 1934 as an independent agency charged with regulating interstate and foreign communications by means of radio, television, wire, cable, and satellite. The committee is responsible for overseeing and authorizing the Commission to ensure efficient implementation of communications policy and the proper and orderly execution of congressional mandates.

The Commission received an appropriation of $185,200,000 for fiscal year 1995; Chapter 2 authorizes an appropriation level of $186 million for fiscal year 1996.

HEARINGS

On Tuesday, September 7, 1995, the Subcommittee on Telecommunications and Finance held an oversight hearing on the Federal management of the radio spectrum. Testifying before the subcommittee was one panel of witnesses as follows: The Honorable Larry Irving, Assistant Secretary of Commerce for Communications and Information, Department of Commerce; Mr. James Gattuso, vice president for policy development, Citizens for a Sound Economy; Mr. Dale Hatfield, CEO Hatfield Associates, Inc.; and Dr. Charles L. Jackson, principal, Strategic Policy Research, Inc.

The Subcommittee on Telecommunications and Finance held a hearing on H.R. 1869, a bill identical to chapter 2 of subtitle A, on June 19, 1995. Testimony was received from FCC Chairman Reed E. Hundt, Commissioners James H. Quello, Andrew C. Barrett, Rachelle B. Chong, and Susan Ness.

COMMITTEE CONSIDERATION

Chapter 1—Spectrum Auctions

On September 13, 1995, the committee met in open session and ordered chapter 1 of subtitle A, as amended, transmitted to the House Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act, by a voice vote, a quorum being present.

Chapter 2—Federal Communications Commission Authorization

On September 13, 1995, the committee met in open session and ordered chapter 2 of subtitle A, as amended, transmitted to the House Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, requires the committee to list the recorded votes on the motion to report and on amendments thereto. There were no recorded votes taken in connection with ordering either chapter 1 of subtitle A or chapter 2 of subtitle A transmitted or in adopting amendments to either chapter. The voice votes taken in committee, as well as the quorum call taken on September 13, 1995, are as follows:

ROLLCALL VOTE NO. 62

Bill: Committee print entitled ''Communications: Spectrum Auctions'' and committee print entitled ''Communications: Federal Communications Commission Authorization.''

Quorum call: 26 members answered present.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley			X	Mr. Dingell			X
Mr. Moorhead			X	Mr. Waxman			
Mr. Tauzin			X	Mr. Markey			X
Mr. Fields				Mr. Wyden			
Mr. Oxley			X	Mr. Hall			
Mr. Bilirakis			X	Mr. Bryant			
Mr. Schaefer			X	Mr. Boucher			
Mr. Barton				Mr. Manton			
Mr. Hastert			X	Mr. Towns			
Mr. Upton				Mr. Studds			
Mr. Stearns			X	Mr. Pallone			X
Mr. Paxon				Mr. Brown			X
Mr. Gillmor				Mrs. Lincoln			X
Mr. Klug			X	Mr. Gordon			
Mr. Franks			X	Ms. Furse			X
Mr. Greenwood				Mr. Deutsch			
Mr. Crapo				Mr. Rush			X
Mr. Cox				Ms. Eshoo			X
Mr. Deal				Mr. Klink			X
Mr. Burr			X	Mr. Stupak			X
Mr. Bilbray			X				
Mr. Whitfield			X				
Mr. Ganske			X				
Mr. Frisa			X				
Mr. Norwood							
Mr. White							
Mr. Coburn			X				

COMMITTEE ON COMMERCE—104TH CONGRESS—VOICE VOTES

SUBTITLE A—CHAPTER 1

Bill: Committee print entitled ''Communications: Spectrum Auctions''.

Amendment: Amendment by Mr. Hall re: timetable for relocation of incumbents.

Disposition: Agreed to, by a voice vote.

Amendment: Amendment by Mr. Fields re: technical corrections pertaining to scoring.

Disposition: Agreed to, by a voice vote.

Amendment: Amendment by Mr. Fields re: additional government spectrum.

Disposition: Agreed to, by a voice vote.

Motion: Motion by Mr. Bliley to order the committee print entitled "Communications: Spectrum Auctions," amended, transmitted to the Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act.

Disposition: Agreed to, by a voice vote.

SUBTITLE A—CHAPTER 2

Bill: Committee print entitled "Communications: Federal Communications Commission Authorization".

Amendment: Amendment by Mr. Stupak re: timetable for relocation of incumbents.

Disposition: Agreed to, by a voice vote.

Motion: Motion by Mr. Moorhead to order the committee print entitled "Communications: Federal Communications Commission Authorization", as amended, transmitted to the Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act.

Disposition: Agreed to, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Telecommunications and Finance held oversight and legislative hearings and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the committee believes that cumulative effect of enacting of chapters 1 and 2 would result in no additional costs to the Federal Government.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, a letter from the Congressional Budget Office providing a cost estimate for all six subtitles of title III is found at the conclusion of title XVII of this bill.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee finds the chapters 1 and 2 of subtitle A would have no inflationary impact.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Chapter 1—Spectrum Auctions

Sec. 3001. Spectrum auctions

(a) Extension and expansion of authority to use competitive bidding

This subsection amends section 309(j) of the Communications Act which grants the FCC authority to use a system of competitive bidding as a means of granting licenses. The subsection provides that such authority will apply when there are mutually exclusive applications for an initial license for an exclusive use of the electromagnetic spectrum. Competitive bidding would not be permitted to be used for unlicensed uses. The FCC is required to continue its obligation under section 309(j)(6)(E) to take actions necessary to avoid situations of mutual exclusivity. An example is the 450–470 MHz band, which is shared by low-powered medical telemetry devices.

The subsection also sets forth specific exemptions from the use of competitive bidding. The subsection does not permit the use of competitive bidding for public safety radio services, including nongovernment uses that protect the safety of life, health, and property and that are not made commercially available to the public. The committee intends that this exemption includes spectrum available for internal, noncommercial radio services used by State of local governmental entities or by nongovernmental entities, such as utility, pipeline, petroleum, railroad services under Federal, State, or local laws or regulations, or other codes or standards relating to public health, safety, or security.

Under this subsection, the FCC may not use competitive bidding for initial licenses for broadcast digital television services assigned by the FCC to incumbent broadcast licenses to replace their current analog signal.

This subsection also repeals the authority of the FCC to use random selection (or so-called lotteries) as an alternative to competitive bidding.

Finally, the expansion of competitive bidding authority under this subsection does not apply to any licenses for which the FCC has accepted mutually exclusive applications prior to the date of enactment. Nonetheless, this prohibition is not intended by the committee to limit or inhibit in any way the FCC's ability to exercise its current authority under the act to determine how best to award licenses for applications previously received.

(b) Commission obligation to make additional spectrum available through competitive bidding

This subsection directs the FCC to auction 100 megahertz [MHz] of spectrum located below 3 gigahertz [GHz] by September 30,

2002, which prior to the date of enactment, have not been designated by the FCC for assignment by auction and have not been identified by the NTIA as reallocable frequencies. The FCC must auction the licenses for the use of bands of frequencies in blocks of at least 25 MHz unless the FCC determines that a combination of smaller bands can reasonably be expected to produce greater receipts for the U.S. Treasury.

In making available such bands of frequencies for competitive bidding under this subsection, the FCC must consider, first and foremost, the promotion of the most efficient use of the spectrum. The FCC must also consider the cost to incumbent licenses of relocating existing uses to other bands of frequencies or other means of communication. Further, the committee remains committed to protecting public safety users from adverse effects of competitive bidding, and directs the FCC to take into account the needs of public safety users when making allocations decisions. Finally, in making bands of frequencies available for auction, the FCC must ensure that such assignments comply with the requirements of international agreements concerning spectrum allocations.

In making available bands of frequencies for competitive bidding pursuant to this section, if the FCC is unable to provide for the effective relocation of incumbent licenses, it shall notify the NTIA that it has identified bands of frequencies suitable for relocation and which could be reallocated for private use.

(c) Identification and reallocation of frequencies

In response to such a notice from the Commission, the NTIA shall prepare and submit a report to the President and Congress identifying and recommending for reallocation frequencies that are assigned to the Federal Government stations and are not required for the present or identifiable future needs of the Federal Government and that are suitable for the uses identified in the Commission's notice.

(d) Completion of C-block auction

This subsection directs the FCC to commence the Broadband Personal Communications Services [PCS] C-block auction not later than December 4, 1995. The C-block spectrum for PCS is anticipated to be the third stage in the PCS auction process. The committee is concerned that this auction may be compromised because of a series of delays in involving challenges to the implementation of the FCC's rules governing this auction. In this regard, on September 28, 1995, a Federal appeals court in Washington, DC dissolved the stay on the auction and allowed it to go forward. The committee believes that further significant delay of this auction will result in a competitive disadvantage to the winner of the C-block licenses since the A- and B-block licenses have previously been awarded. It is the committee's intent that this auction be held expeditiously not only to prevent erosion of the value of the spectrum but to promote greater competition in the existing wireless marketplace. This subsection provides that the FCC's competitive bidding rules set forth in its Sixth Report and Order in Docket 93–253 will govern the auction and that these rules be deemed final.

(e) Modification of auction policy to preserve auction value of spectrum

This subsection directs that the voluntary negotiation period for relocating fixed microwave licenses to frequency bands not allocated for licensed emerging technology services, such as PCS, will expire within 1 year after the date of FCC acceptance of applications for such services. The mandatory negotiation period for relocating fixed microwave licenses will expire 2 years from the acceptance of applications. The purpose of this subsection is to expedite the relocation of incumbent licenses so that emerging technology services such as PCS may become operational as soon as possible.

(f) Identification and reallocation of auctionable frequencies

This subsection requires the NTIA to submit a second reallocation report to Congress, identifying and recommending for reallocation a single frequency band of at least 20 MHz, located below 3 GHz, and which meets the criteria of section 113(a) of the National Telecommunications and Information Administration Organization Act. Within 1 year after receipt of the second reallocation report, the FCC shall submit a plan to the President and Congress, and implement such plan for the allocation and assignment of such frequencies in accordance with section 309(j) of the Communications Act of 1934.

Chapter 2—Federal Communications Commission Authorization

Sec. 3011. Short title

Section 3011 designates the title of chapter 2 as the Federal Communications Commission Authorization Act of 1995.

Sec. 3012. Extension of authority

(a) Authorization of appropriation

Section 3012(a) authorizes an appropriation for the Federal Communications Commission [FCC] of $186 million for fiscal year 1996.

(b) Travel reimbursement program

Subsection (b) deletes the FCC's specific travel reimbursement authority codified at section 4(g)(2) of the Communications Act. This authority has been superseded by the generic, Governmentwide provisions of 31 U.S.C. 1353, the Ethics Reform Act of 1989. Since Congress has authorized such Governmentwide reimbursement authority, to retain a different program solely for the FCC would subject the agency to conflicting requirements.

(c) Communications support for older Americans

Subsection (c) extends the authorization for the FCC to make grants to, or enter into cooperative agreements with, private, nonprofit organizations to utilize the voluntary services of older Americans. While this authority was included in the FCC Authorization Act of 1990, the FCC was only able to begin testing the program in fiscal year 1991, once the program was reauthorized. Funding constraints in fiscal year 1993 precluded the use of the program that year. The FCC was not authorized to utilize the program in

fiscal year 1994. Therefore, extending the program through fiscal year 1996 will enable the FCC to assess the benefits of the program more thoroughly.

Section 3013. Application fees

(a) Adjustment of application fee schedule

Section 3013(a) amends section 8(b) of the Communications Act to authorize the FCC to:

(1) Modify its application fees to include an allocation of the legal and executive costs associated with supporting the FCC's application processing activities;

(2) add, delete, or modify application fee service classifications;

(3) continue to collect fees at the prior year's rates until the effective date of a revised fee schedule; and

(4) retain application fees collected in excess of an amount to be sent to the general fund of the U.S. Treasury.

This section authorizes the FCC to modify its schedule of fees for application processing so that the estimated total collection does not exceed the costs associated with its authorization of service activities. For the first item, the FCC may include in its associated costs an allocation of the legal services and executive direction and support costs incurred in support of its application processing activities. Providing the FCC with this authority will result in fee collections that more accurately reflect the cost to the Commission of administering its authorization of service activities.

The new sections 8(b)(4) and 8(b)(5) authorize the FCC to add, delete, or reclassify fee service categories and establish the fee amounts for these modifications consistent with the cost allocation methodology noted above. This authority would enable the FCC to make adjustments to its service classifications in order to respond quickly to the often rapid change in the communications industry.

The new section 8(b)(3) authorizes the FCC to continue to collect application fees at the previous year's rates until a new application fee schedule is adopted by the FCC and becomes effective. Without this provision, the FCC could lose several months of fee revenues from fee payers.

(b) Treatment of additional collections

Subsection (b) amends section 8(e) of the Communications Act to require the FCC to deposit $40,000,000 in application fees to the general fund of the U.S. Treasury, with any additional amount collected to be deposited as an offsetting collection in, and credited to, the account providing appropriations to fund the FCC. This provision authorizes the FCC to recover the costs of legal services and executive direction and support allocated to the authorization of service programs and to retain any new application fee revenues in excess of $40,000,000.

(c) Schedule of application fees for PCS

Subsection (c) amends section 8(g) of the Communications Act to establish the FCC's authority to charge fees for the licensing and regulation of Personal Communications Services [PCS]. This new

schedule of PCS fees is consistent with fees authorized by Congress for other wireless services.

(d) Vanity call signs

Subsection (d) adds to section 8(g) of the Communications Act language which proposes a one-time $150 lifetime fee for persons interested in obtaining an amateur radio vanity call sign. The section also:

(1) Provides that money received from these fees shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to the FCC; and

(2) deletes the current annual regulatory user fee of $7 for amateur vanity call signs.

Sec. 3014. Regulatory fees

(a) Executive and legal costs

Section 3014(a) amends section 9 of the Communications Act by authorizing the FCC to allocate and recover the legal services and executive direction and support costs it incurs in the discharge of its enforcement, policy and rulemaking, user information services, and international activities. This provision is similar to the amendment in section 8(b) modifying application processing fees. Its adoption will help to ensure that the regulatory fee collections more accurately reflect the costs of the FCC of administering these activities.

(b) Establishment and adjustment

Subsection (b) authorizes the FCC to continue to collect regulatory fees at the prior year's rates until the effective date of a new fee schedule. Again, without this provision, the FCC could lose several months of revenues from fee payers.

This section further requires the FCC to notify the Congress of any changes to the regulatory fee schedule at least 45 days prior to the effective date of the change. This revision will help to ensure that Congress is notified in a timely manner of proposed changes to the fee schedule.

(c) Regulatory fees for satellite TV operations

Subsection (c) amends section 9 of the Communications Act to reduce to $500 the regulatory fees now imposed under section 9 on satellite TV licenses from a current range of $4,000–$18,000, depending on market size and VHF or UHF status. Although the FCC needs the resources to regulate these so-called "satellite stations", the committee finds that it would not be in the public interest to impose the full regulatory fee on the approximately 130 satellite stations, most of which serve less populated areas of the country.

(d) Governmental entities paying section 9 fees

Subsection (d) amends section 9(h) of the Communications Act to repeal the current exemption from regulatory fees for governmental entities that also provide competitive, commercial services. The committee intends that fees not be assessed against State or local

governments for communications associated with public services provided by government entities, such as police and fire protection, ambulance dispatch, or highway maintenance. In addition, the exemption from regulatory fees applies to instances where a State, territory, municipality, or similar political entity or subpart thereof it the sole provider of commercial services.

However, the exemption from regulatory fees does not apply where a Government entity provides commercial communications services in competition with one or more nongovernmental providers. Simple equity requires that when a Government entity is engaged in competition with a nongovernmental entity for the provision of a service, both competitors should be subject to the payment of regulatory fees.

(e) Information required in connection with adjustment of regulatory fees

Subsection (e) adds a new section 10 to the Communications Act entitled "Accounting System and Adjustment Information." This section will require the FCC to develop a cost accounting system and tighter budget planning for the allocation of the costs of its application and regulatory fee programs and for any fee adjustments.

The committee adopted this provision as a precaution against excessive spending by the FCC as a result of the adoption of section 9 of the Communications Act in August 1993. The enactment of section 9 has resulted in the establishment of a fee program which permits the FCC to be funded by those it regulates up to a level stipulated by appropriations acts.

This subsection provides that when the FCC adjusts the fee schedule (pursuant to the requirements of appropriations), those revisions are not subject to judicial review. It is thus critically important that Congress, the public, and the industries that ultimately will have to pay the fees, have access to the justification that underlie budget requests early in the budget process.

Section 3014(e) of chapter 2 in effect requires the FCC to adopt a regulatory budget, and provide the Congress and the public with a justification of its budget request in a format that will help to illuminate the increased fees that will result and a rationale for spreading those fees over the affected industries.

The format requires the FCC to submit its request no later than May 1 of each calendar year. The submission is required to be broken down according to the following activities:

Authorization of service.—This category includes the authorization or licensing of radio stations, telecommunications equipment, and radio operators. This activity group also includes the authorization of common carrier services and facilities.

Policy and rulemaking.—This category encompasses formal inquiries, rulemaking proceedings to establish or amend the FCC's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; and spectrum planning, modeling, propagation-interference analyses and allocation.

Enforcement.—This category covers enforcement of the FCC's rules, regulations, and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. This

function also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices.

User information services.—This category includes the publication and dissemination of FCC decisions and actions, and related activities; public reference and library services, the duplication and dissemination of FCC records and data bases; the receipt and disposition of public inquiries; consumer, small business, and public assistance; and public affairs and media relations.

International.—This category covers the preparation for and participation in international, regional and bilateral conferences, meetings, and negotiations; and administration of FCC responsibilities under international radio regulations and other treaties, conventions, and agreements. This function also includes activities associated with international frequency coordination and notification.

Legal services.—This category includes legal review and support services regarding matters of administrative law, litigation, and adjudications. This activity group also includes the Office of General Counsel, Office of Administrative Law Judges, and the Review Board.

Executive direction and support.—This category encompasses overall policy direction, program development, and executive direction as provided by the Chairman and staff, Commissioners and their staffs, and by the managing director. This function also includes support services such as management planning, budgeting and financial management, personnel resource management, information resources management and ADP operations, security, and administrative and office services. Also associated with this function are the activities of the Office of Legislative Affairs and the Office of Inspector General.

For each activity, the Commission is required to further allocate its request among its various bureaus, divisions, and offices.

It is the committee's hope that the discipline imposed by the enactment of this section will result in an increased awareness of the impact of increases in the Commission's budget on those who will bear the burden of paying for those increases. This information will also assist the committee in its oversight of the FCC's activities, and provide greater public accountability for the Commission as well.

It is the committee's intention to scrutinize the FCC's future budget closely. The committee is prepared in the future to place a cap on section 9 fees if it is apparent that the FCC is requesting excessive budget increases.

Sec. 3015. Inspection of ship radio stations

This section amends sections 4(f)(3), 362(b) and 385 of the Communications Act of 1934 to authorize ship inspections by entities other than the FCC, and grants the FCC more flexibility in inspection requirements.

The Communications Act of 1934 requires the FCC to conduct inspections of ship radio equipment and apparatus required to be carried aboard ship to ensure compliance with part II of title III of the Communications Act and the Great Lakes Agreement. The

section will afford increased flexibility and efficiency for both ship owners and the FCC by authorizing the FCC to use designated entities, such as the American Bureau of Shipping, to conduct inspections on a case-by-case basis. This flexibility will be particularly useful for vessels operating in remote areas only on a periodic basis. In addition, the amendments will give the FCC greater flexibility in determining which inspections may be necessary to ensure compliance with the requirements in part II.

Section 362(b) requires that ships subject to part II must have their radio installation inspected at least once every year by the FCC. These amendments extend the FCC's authority to grant a waiver of the annual inspection of a ship's radio installation to ships travelling from one U.S. port to another or operating in remote ports when the FCC inspectors are not able to inspect the vessel from 30 days to 90 days. The amendment also allows the FCC to waive the annual inspection entirely for a U.S. vessel that operates in waters outside U.S. jurisdiction, if the vessel complies with the international Safety Convention. Currently, U.S. vessels that operate in foreign trade and comply with the Safety Convention requirements for radio equipment but do not return to the United States within 12 months are unable to obtain the annual inspection required under the existing section of the act.

Sec. 3016. Expedited ITFS processing

Section 3016 amends section 5(c)(1) of the Communications Act to allow the FCC to delegate to its processing staff authority to act on routine cases involving authorizations of the Instructional Television Fixed Service [ITFS], a microwave video service which provides instructional programming to schools and colleges. Many ITFS stations also lease excess capacity on their system to wireless cable operations. Wireless cable operations, in turn, compete with traditional cable systems in the delivery of video programming to the public. Where more than one educational institution applies for an ITFS station, the FCC conducts a paper hearing to decide the winner. Winners are chosen based upon an objective point system. The determinations required to resolve cases typically involve routine, uncontroverted factual matters. The amendment will authorize FCC proceeding staff to act on these routine cases.

The committee believe that this amendment will substantially speed ITFS processing, thus speeding the offering of instructional services to schools and colleges, and speeding competition by wireless cable operators to cable systems. Moreover, the applicants will still be able to seek FCC review of staff actions in such cases.

Sec. 3017. Tariff rejection authority

Section 3017 amends section 203(d) of the Communications Act to clarify in four respects the FCC's tariff rejection authority. First, the provision makes explicit the FCC's authority to reject a tariff that is patently unlawful on its face. The courts have recognized that the FCC has implicit authority to reject a tariff filing if it finds it is patently unlawful on its face. See *Associated Press* v. *FCC*, 448 F.2d 1095, 1103 (D.C. Cir. 1971). This rejection authority, however, has never been expressly codified in the Communications Act except to the extent that section 203(d) of the Commu-

nications Act permits the FCC to reject a tariff filing for failure to give lawful notice of its effective date.

Second, this section provides that in deciding whether to reject a tariff filing as patently unlawful, the FCC must presume that the facts alleged by the carrier are true. The FCC would thus be required to decide whether the tariff was lawful as a matter of law, rather than relying on contested facts. This procedure is similar to the procedures and methods on analysis employed by Federal courts in ruling on motions for summary judgment.

Third, the amendment clarifies that the FCC may consider information that an interested party or the carrier may present to the FCC. FCC consideration of additional material increases administrative efficiency by permitting the agency to avoid a full investigation of the tariff when it is unnecessary to determine the lawfulness of the tariff.

Fourth, the amendment makes explicit the FCC's authority to reject a tariff filling either in its entirety or in part. Clarifying this aspect of the FCC's authority will permit beneficial and lawful parts of proposed tariff filings to take effect, even if the proposed tariff filing contains unlawful portions.

Sec. 3018. Refund authority

Section 3018 amends section 220(d) of the Communications Act to clarify the FCC's authority to make refunds to redress certain common carrier rule violations. The committee believes this language is necessary to make certain that its rules on cost allocation and other matters are followed, and where they are not followed the committee believes the FCC must have complete and full authority to order refunds: First, in order to make consumers whole, and second, to fully enforce the FCC's rules and regulations.

Sec. 3019. Licensing of aviation and maritime services by rule

This section amends section 307(e) of the Communications Act to authorize the FCC to issue blanket licenses by rule for radio equipment on airplanes and ships.

Section 301 of the Communication Act specifies, among other things, that the use or operation of radio equipment on ships and aircraft of the United States must be authorized by the grant of a radio station license. Similarly, the international radio regulations require licenses for vessel and aircraft radio stations when operated on international voyages or flights. Currently, the FCC routinely grants, upon request and with some exceptions, an individual aircraft or ship station license to any person who properly completes an application. For domestic operations, and individual license is not needed and would be a burden on both applicants and the FCC.

This amendment would permit the FCC to authorize the operation of radio equipment on ships and aircraft that operate only domestically. In the case of aircraft, the FCC's work is redundant with that of the Federal Aviation Administration [FAA]. The FAA assigns each aircraft an identification number which then becomes that FCC's call sign. In the case of vessels, call sighs are not necessary, as vessel names are used in some cases for identification and could be used generally for domestic operations. In addition,

the licenses grant no exclusive rights to channels. All channels are shared by all licensees, so spectrum management occurs through channel sharing, in real time, or through control exercised generally by FAA or Coast Guard stations. Aircraft and ship radio stations would still be subject to the FCC's rules and enforcement procedures. Thus, licensing has little to do with effective spectrum management.

Further, authorizing ships and aircraft to operate by rule is consistent with the provision in section 307 for the radio control and citizens band radio services. Finally, authorization for such ship and aircraft stations in domestic operations only would not violate the international radio regulations. Therefore, adoption of this amendment will improve efficiency of government operations and eliminate an unnecessary burden on vessel and aircraft operators.

Sec. 3020. Auction technical amendments

This section amends section 309(j)(8) of the Communications Act to assist the FCC in its administration of spectrum auctions first authorized by the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66).

Funding availability.—The FCC must expend funds in order to conduct spectrum auctions and then retain auction revenues to offset this cost. However, if the auction is conducted late in a fiscal year and the revenues are received too late to be expended within that fiscal year, then the FCC would not have the ability to use the retained funds. To provide the FCC with a basis to fund the auctions, this amendment will give the agency flexibility in the timing of collection and use of auction funds.

Escrow of deposits.—This amendment will allow the FCC to establish a Spectrum Auction Deposit Account to: First, place auction revenues in an interest bearing escrow account; and second, pay interest to the unsuccessful bidders. Any auction payments made by prospective bidders to the FCC prior to competitive bidding will be deposited into this account, pending the outcome of the competitive bidding process.

These funds will be invested in public debt securities and will not indicate acceptance of any bid. Funds submitted by prospective bidders who are not ultimately winning bidders for a license will be returned to such bidders after the FCC closes the bidding process. In such an event, the funds will be returned with the actual earned interest, less any applicable fees and penalties. For the winning or accepted bid, however, the interest accrued during the periods held in the account pending acceptance or rejection of the bid will accrue to the Federal Government.

Sec. 3021. Forfeitures for violations imperiling safety of life

This section amends section 503(b)(1) of the Communications Act to allow the FCC to take appropriate administrative monetary sanction action in all instances of serious violations involving a requirement of the Act or FCC rules that imperils safety of life. For example, the FCC, by rule, requires ship radio stations to monitor channel 16—the emergency channel—for distress calls from other ships, requires broadcast licensees periodically to check the lighting and painting of their broadcast towers for air navigation safety

purposes, and requires cable television operators to prevent signal leakage from their systems that could interfere with critical aviation frequencies. These requirements relating to safety of life are extremely vital. However, due to the present definition of "willful," the omission of these required acts can only result in administrative sanction if there is evidence, extrinsic to the violation itself, that the omission was conscious and deliberate (irrespective of any intent to violate the act or the rule), which very rarely occurs; or if the violation was repeated.

In these cases, the omission itself, whether conscious and deliberate or inadvertent, is an extremely serious one and should result in an appropriate administrative monetary forfeiture sanction. Yet, lacking evidence of a conscious or deliberate omission, the FCC cannot take administrative sanction action unless it catches the violator a second time on the basis of a "repeated" violation. Even then, if the violation is a continuing one, the violation must be detected on more than 1 day in order to be considered repeated. It is frequently difficult to detect repeated violations because many stations are located at considerable distances from FCC field offices and only receive periodic inspections at substantial intervals of time due to the distance and FCC budgetary constraints. Additionally, significant budgetary savings would occur in some instances by eliminating the present need to revisit licensees at considerable distances from field offices to determine whether administrative sanctions can be issued for serious violations on a repeated basis.

Sec. 3022. Use of experts and consultants

This section allows market-based payments for experts and consultants. It would authorize the FCC to obtain the services of nonagency experts and consultants at higher rates of daily compensation than allowed under the current GS 15-step 10 limit.

Sec. 3023. Statute of limitations for forfeiture proceedings against common carriers

This section amends section 503(b)(6) of the Communications Act to increase the statute of limitations period from 1 to 5 years to assist in enforcement of the jurisdictional separation and cost allocation rules.

Often, in the course of auditing a carrier's compliance with accounting rules, the auditors uncover violations of part 64 (the Joint Cost rules) and part 36 (the Separations Manual). Forfeiture authority for violations of the accounting rules comes from section 220(d). Since section 220(d) does not contain a statute of limitations, the FCC has established by rule a 5-year limitation on forfeiture actions. Forfeiture authority for violations of the other costing rules, however, comes from section 503(b) of the Act, which has a statute of limitations of only 1 year.

Since the auditors are usually looking at transactions that took place in previous years, most of the violations they find are a year old by the time they are discovered. Violations of parts 64 and 36 can almost never be pursued because of the short statute of limitations. Increasing the limitation period so that it is coextensive with the period during which accounting violations can be noticed would

allow for consistent enforcement of the jurisdiction separations and cost allocation rules.

This amendment also will extend the statute of limitations for violations by common carrier licensees of a number of other operational and technical requirements (e.g., failing to construct, exceeding authorized antenna height, etc.).

Sec. 3024. Utilization of FM band for assistive devices for hearing impaired individuals

This section requires the FCC to report to Congress in 6 months on the use of the FM frequency band to facilitate the use of auditory assistive devices for the hearing impaired. The committee finds it important that the FCC addresses this matter in an expeditious manner.

Sec. 3025. Technical amendment

This section makes a technical correction to section 302(d)(1) of the Communications Act by striking in subparagraph (A) ''allocated to the domestic cellular radio telecommunications service'' and inserting ''utilized to provide commercial mobile service (as defined in section 332(d);'' and by striking in subparagraph (C) ''cellular'' and inserting ''commercial mobile service.''

This section is made necessary by the 1993 Omnibus Budget Reconciliation Act, which mandated that all Commercial Mobile Radio Service [CMRS] services be regulated in a similar manner. Extending the prohibition on scanners receiving cellular radio transmissions to all CMRS transmissions is necessary to ensure that all of these services are provided the same level of privacy protection.

CHANGES IN EXISTING LAW MADE BY SUBTITLE A

The changes in existing law made by subtitle A are included at the conclusion of the report on this title of the bill.

SUBTITLE B—NUCLEAR REGULATORY COMMISSION ANNUAL CHARGE

PURPOSE AND SUMMARY

Subtitle B extends the Nuclear Regulatory Commission's [NRC] authority to collect up to 100 percent of its budget from user fees through fiscal year 2002.

BACKGROUND AND NEED FOR LEGISLATION

The NRC is responsible for ensuring the safety of civilian uses of nuclear materials. The independence and integrity of this agency is essential to maintaining the confidence of the public in the use of nuclear energy and radioactive materials. Thus, a reliable stream of long-term funding is vital to assuring the uninterrupted operation of this important organization.

The NRC budget is paid for entirely through user fees on licensees, except for work on the high-level nuclear waste repository which is paid for through the Nuclear Waste Fund. User fees are an equitable way of paying for the cost of Federal regulation. Currently, user fees are used to fund several Federal agencies or programs including the Federal Energy Regulatory Commission, the

Securities and Exchange Commission, and the pipeline safety program under the authority of the U.S. Department of Transportation. By collecting user fees, those who use an agency's resources pay the costs of funding that agency. Those who use the greatest amount of the agency's resources are required to pay the greatest annual fees. In the case of the NRC, nuclear licensees pay for the cost of Federal regulation and then pass that cost on to their customers. The result is an equitable one: those who do not buy electricity or products generated by nuclear power do not bear the cost of regulating it.

Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) requires the Nuclear Regulatory Commission to collect annual charges from its licensees to provide offsetting collections to pay for its programs. Specifically, section 6101 allows the NRC to collect amounts which, when added to other amounts collected by the NRC (such as fees collected under the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701), equals 100 percent. However, current law only provides authority to collect fees and annual charges equal to 100 percent of the NRC's budget through fiscal year 1998. Absent an extension, after fiscal year 1998, NRC's permanent authority to collect 33 percent of its budget authority through fees and annual charges would take effect.

Currently, the NRC budget is made up of money collected through three different methodologies. First, the NRC receives appropriations from the Nuclear Waste Fund established under section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) for licensing the Department of Energy's nuclear waste management program. Charges for these activities are not recovered through annual charges because nuclear utilities are paying for the cost of these activities through their payments to the Nuclear Waste Fund. Thus, recovery of Nuclear Waste Fund appropriations through the annual charge would constitute double payment by the utilities.

The NRC also recovers a portion of its budget through fees assessed on licensees under the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701). This Act provides that anyone receiving a service or a thing of value from the NRC shall pay the NRC's cost of providing that service or thing of value. The purpose of this provision is to recover the costs of providing individually identifiable services to applicants and holders of NRC licensees from the recipients of those services. Finally, generic NRC activities that benefit all licensees generally are recovered through annual charges.

Subtitle B extends NRC authority to collect up to 100 percent of its budget through user fees through fiscal year 2002. This extension will generate revenues in amounts sufficient to offset expenditures by the NRC. The NRC is charged by the Omnibus Budget Reconciliation Act of 1990 to asses these charges under the principle that licensees who require the greatest expenditures of the NRC's resources should pay the greatest annual charge. Subtitle B does not alter, in any way, the fee structure a currently collected by the NRC.

HEARINGS

The committee's Subcommittee on Energy and Power did not hold hearings on section 3031 of subtitle B.

COMMITTEE CONSIDERATION

On July 28, 1995, the Subcommittee on Energy and Power met in open session and approved for full committee consideration a committee print embodying the text of section 3031 without amendment by a voice vote. On September 13, 1995, the committee met in open session and ordered subtitle B transmitted to the House Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act, without amendment, by a roll call vote of 29 yeas to 11 nays.

ROLLCALL VOTES

Pursuant to clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, following are listed the recorded votes on the motion to order Subtitle B transmitted to the House Committee on the Budget, including the names of those Members voting for and against.

ROLLCALL VOTE NO. 62

Bill: Committee print entitled "Nuclear Regulatory Commission Annual Charge."

Quorum call: 26 members answered present.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley			X	Mr. Dingell			X
Mr. Moorhead			X	Mr. Waxman			
Mr. Tauzin			X	Mr. Markey			X
Mr. Fields				Mr. Wyden			
Mr. Oxley			X	Mr. Hall			
Mr. Bilirakis			X	Mr. Bryant			
Mr. Schaefer			X	Mr. Boucher			
Mr. Barton				Mr. Manton			
Mr. Hastert			X	Mr. Towns			
Mr. Upton				Mr. Studds			
Mr. Stearns			X	Mr. Pallone			X
Mr. Paxon				Mr. Brown			X
Mr. Gillmor				Mrs. Lincoln			X
Mr. Klug			X	Mr. Gordon			
Mr. Franks			X	Ms. Furse			X
Mr. Greenwood				Mr. Deutsch			
Mr. Crapo				Mr. Rush			X
Mr. Cox				Ms. Eshoo			X
Mr. Deal				Mr. Klink			X
Mr. Burr			X	Mr. Stupak			X
Mr. Bilbray			X				
Mr. Whitfield			X				
Mr. Ganske			X				
Mr. Frisa			X				
Mr. Norwood							
Mr. White							
Mr. Coburn			X				

ROLLCALL VOTE NO. 63

Bill: Committee print entitled "Nuclear Regulatory Commission Annual Charge"

Motion: Motion by Mr. Bliley to order the committee print entitled "Nuclear Regulatory Commission Annual Charge" transmitted to the Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act.

Disposition: Agreed to, by a rollcall vote of 29 yeas to 11 nays.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley	X			Mr. Dingel		X	
Mr. Moorhead	X			Mr. Waxman			
Mr. Tauzin				Mr. Markey		X	
Mr. Fields	X			Mr. Wyden	X		
Mr. Oxley	X			Mr. Hall	X		
Mr. Bilirakis	X			Mr. Bryant		X	
Mr. Schaefer	X			Mr. Boucher		X	
Mr. Barton				Mr. Manton		X	
Mr. Hastert	X			Mr. Towns		X	
Mr. Upton	X			Mr. Studds			
Mr. Stearns	X			Mr. Pallone	X		
Mr. Paxon	X			Mr. Brown		X	
Mr. Gillmor	X			Mrs. Lincoln	X		
Mr. Klug	X			Mr. Gordon	X		
Mr. Franks	X			Ms. Furse		X	
Mr. Greenwood				Mr. Deutsch	X		
Mr. Crapo	X			Mr. Rush		X	
Mr. Cox				Ms. Eshoo		X	
Mr. Deal				Mr. Klink		X	
Mr. Burr	X			Mr. Stupak	X		
Mr. Bilbray	X						
Mr. Whitfield	X						
Mr. Ganske	X						
Mr. Frisa							
Mr. Norwood	X						
Mr. White	X						
Mr. Coburn	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee has not held oversight or legislative hearings on this subtitle.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the committee believes that enactment of subtitle B would result in no additional costs to the Federal Government.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, a letter from the Congressional Budget Office providing a cost estimate for all six subtitles of title III is found at the conclusion of title XVII of this bill.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee finds that subtitle B would have no inflationary impact.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 3031 amends section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 to extend the current user fee that pays for the budget of the NRC to cover fiscal years 1999–2002.

CHANGES IN EXISTING LAW MADE BY SUBTITLE B

The changes in existing law made by subtitle B are included at the conclusion of the report of this title of the bill.

SUBTITLE C—UNITED STATES ENRICHMENT CORPORATION

PURPOSE AND SUMMARY

The purpose of title III, subtitle C, the USEC Privatization Act, is to facilitate the privatization of the United States Enrichment Corporation [USEC]. The legislation contains provisions to increase the return to the taxpayers from the sale of the Corporation by enhancing the value of the Corporation to potential purchasers or shareholders, and by eliminating burdensome statutory requirements for the privatized corporation.

BACKGROUND AND NEED FOR LEGISLATION

The United States Enrichment Corporation [USEC] is a Government corporation established by title IX of the Energy Policy Act of 1992 [EPAct]. USEC produces and markets uranium enrichment services to more than 60 utilities which own and operate commercial nuclear power plants in the United States and 11 foreign countries (90 percent of the domestic market and 40 percent of the world market). It operates two enrichment facilities located in Paducah, KY, and Portsmouth, OH, with total employment of approximately 4,500 persons. The Corporation has annual revenues of approximately $1.5 billion.

Prior to the creation of USEC, the Department of Energy's uranium enrichment program supplied enriched uranium for use at commercial nuclear power plants. At that time, uranium enrichment was the only part of the nuclear fuel cycle related to production or use that was not a private sector responsibility. The United States had a near-monopoly on the world uranium enrichment market until the 1970's, at which time competition from foreign competitors began to significantly erode U.S. market share. Today, less than half of the world market is served by U.S. enrichment services. In passing EPAct, Congress recognized the dangers this

situation presented for maintaining a viable U.S. presence in the uranium enrichment market and took the first step toward privatization by creating the quasi-governmental USEC. Subtitle C establishes the framework for full privatization and will provide the Corporation with the additional operating flexibility needed to ensure a future for the domestic uranium and uranium enrichment industries.

In creating USEC, the Congress laid out three principles for the Corporation to follow: First, that the Corporation must be treated like a private corporation to the fullest extent practicable; second, that the Corporation must be a profit maximizer; and third, that the Corporation must pay its own way. It is intended that the full privatization of the Corporation will continue to follow these principles, and allow for the creation of a private entity which will provide a maximum return for the taxpayer's investment in the Corporation and which will be a strong and economically viable force in the market. The Corporation must not be burdened with additional layers of bureaucracy not required of other private business entities. The Corporation must also be allowed to maximize it profits in the private sector, making itself an attractive investment opportunity and paving the way for a healthy and vigorous life in American business. A key component of this effort will be additional research on and development of uranium enrichment technologies, including the Atomic Vapor Laser Isotope Separation [AVLIS] technology. This technology was transferred to the Corporation in EPAct, and it is expected that further development of AVLIS will be accomplished without the benefit of Federal subsidization.

The administration indicated support for the privatization of the Corporation in its fiscal year 1996 budget request to Congress. It estimates that proceeds from the sale will return $1.5 to $1.9 billion to the U.S. Treasury. Privatization of the Corporation will ensure the future of the domestic uranium and uranium enrichment industries and will provide significant returns to the Federal Treasury, not only from the proceeds of the initial sale but also from the tax revenues and royalty payments generated from the privatized corporation.

HEARINGS

On February 24, 1995, the Subcommittee on Energy and Power held a hearing on privatization of the United States Enrichment Corporation. Witnesses included: Mr. William J. Timbers, Jr., President, United States Enrichment Corporation; Mr. Robert Bernero, Director, Office of Nuclear Material, Safety and Safeguards, U.S. Nuclear Regulatory Commission; Mr. Victor Rezendes, Director, Energy and Science Issues, U.S. General Accounting Office; Mr. James Derryberry, managing director, J.P. Morgan and Associates; and Mr. William Magavern, director, Critical Mass Energy Project, public citizen.

COMMITTEE CONSIDERATION

On March 15, 1995, the committee met in open session to consider H.R. 1216, the USEC Privatization Act. The committee or-

dered reported the bill H.R. 1216, with amendments, by a voice vote, a quorum being present. An accounting of that measure can be found in House Report 104–86, and the language reported in H.R. 1216 was modified during the committee's consideration of subtitle C.

On September 13, 1995, the committee met in open session to consider subtitle C of title III, the USEC Privatization Act. The committee ordered subtitle C transmitted to the House Committee on the Budget, with an amendment in the nature of a substitute, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives requires the committee to list the recorded votes on the motion to report and on amendments thereto. There were no recorded votes taken in connection with ordering subtitle C transmitted or in adopting amendments thereto. The voice votes taken in committee, as well as the quorum call taken on September 13, 1995, are as follows:

ROLLCALL VOTE NO. 62

Bill: Committee print entitled "United States Enrichment Corporation."

Quorum call: 26 members answered present.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley			X	Mr. Dingell			X
Mr. Moorhead			X	Mr. Waxman			
Mr. Tauzin			X	Mr. Markey			X
Mr. Fields				Mr. Wyden			
Mr. Oxley			X	Mr. Hall			
Mr. Bilirakis			X	Mr. Bryant			
Mr. Schaefer			X	Mr. Boucher			
Mr. Barton				Mr. Manton			
Mr. Hastert			X	Mr. Towns			
Mr. Upton				Mr. Studds			
Mr. Stearns			X	Mr. Pallone			X
Mr. Paxon				Mr. Brown			X
Mr. Gillmor				Mrs. Lincoln			X
Mr. Klug			X	Mr. Gordon			
Mr. Franks			X	Ms. Furse			X
Mr. Greenwood				Mr. Deutsch			
Mr. Crapo				Mr. Rush			X
Mr. Cox				Ms. Eshoo			X
Mr. Deal				Mr. Klink			X
Mr. Burr			X	Mr. Stupak			X
Mr. Bilbray			X				
Mr. Whitfield			X				
Mr. Ganske			X				
Mr. Frisa			X				
Mr. Norwood							
Mr. White							
Mr. Coburn			X				

COMMITTEE ON COMMERCE—104TH CONGRESS—VOICE VOTES

Bill: Committee print entitled "United States Enrichment Corporation."

Amendment: Amendment in the nature of a substitute by Mr. Schaefer.

Disposition: Agreed to, as amended, by a voice vote.

Amendment: Amendment by Mr. Markey to the Schaefer amendment in the nature of a substitute re: strike the section relating to gaseous diffusion technology.

Disposition: Agreed to, by a voice vote.

Motion: Motion by Mr. Bliley to order the committee print entitled "United States Enrichment Corporation," as amended, transmitted to the Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act.

Disposition: Agreed to, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Energy and Power conducted an oversight hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the committee believes that enactment of subtitle B would result in no additional costs to the Federal Government.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, a letter from the Congressional Budget Office providing a cost estimate for all six subtitles of title III is found at the conclusion of title XVII of this bill.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee finds that subtitle C would have no inflationary impact.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 3035. Short title and reference

This section provides that the Act may be cited as the "USEC Privatization Act." It also provides that references to sections in the act shall be considered to be made to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

Sec. 3036. Production facility

This section amends the definition of the term "production facility" set forth in section 11 of title I of the Atomic Energy Act [AEA] to exclude the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation [AVLIS] technology from the definition of production facility. As a result, any uranium enrichment facility using AVLIS technology would be eligible for one-step licensing under the materials licensing provisions of section 53 and 63 of the AEA.

Sec. 3037. Definitions

The section amends and adds certain definitions to section 1201 of the AEA.

Sec. 3038. Employees of the Corporation

This section provides certain protections for the employees of the privatized corporation. Section 3038(a) provides that the privatization shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation. It also ensures that assets and liabilities associated with pension benefits plans will be transferred to the new contractor or private corporation in the case of a contractor change. It is the committee's intent that the pension plans will remain intact, regardless of changes in contractor or owner at the gaseous diffusion plant, and to prevent the privatized corporation from taking actions which would result in any adverse affects to the pension benefits.

Section 3038(a) also provides that the Corporation shall abide by the terms of any unexpired collective bargaining agreement that is in effect on the privatization date at each gaseous diffusion plant. Additionally, in the event of a mass layoff or plant closing at one of the gaseous diffusion plants, the section provides that employees of the Corporation as of the privatization date will be considered as Department of Energy employees for purposes of sections 3161 through 3163 of the National Defense Authorization Act for fiscal year 1993 (42 U.S.C. 7272h–7274j). These provisions allow for hiring preferences within Federal Government employment for preprivatization employees affected by a possible mass layoff or plant shutdown after privatization. Section 3038(a) also ensures the continuity of employees' health benefits during the privatization process.

Section 3038(b) deletes provisions relating to departmental detailees. Such provisions are no longer necessary in that there are no Department of Energy employees currently detailed to the Corporation. This section also clarifies current law which provides that employees of the Corporation who transferred to the Corporation from other Federal employment have the option to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system.

The committee's intent is to confirm existing policy and practice with respect to retiree health expenditures which for DOE are sub-

ject to annual appropriations. The Commerce Committee believes this section does not increase the liabilities of either DOE or USEC and is consistent with existing agreements. Significantly, DOE, the private corporation, and the operating contractor retain the right to implement cost-saving measures with respect to the post-retirement health benefit plans of employees at the gaseous diffusion plants.

Sec. 3039. Marketing and contract authority

Section 3039(a) amends section 1401(a) of the AEA to eliminate the Corporation's authority to act as the exclusive marketing agent on behalf of the U.S. Government for the provision of enriched uranium and uranium enrichment and related services.

Section 3039(b) amends current law to clarify that privatization will not affect the terms of, or the rights and obligations of the parties to, power purchase contracts executed by the Department prior to the transition date and that relate to uranium enrichment, but which the Secretary determined were not transferable to the Corporation. The section also adds a new subsection (3) to section 1401(b) to clarify the effect of the transfer of the contracts, agreements and leases entered into by the U.S. Government through the Department of its predecessors which were transferred to the Corporation pursuant to section 1401(b) of the AEA. Subsection (3)(A) provides that as a result of the transfer, all rights, privileges and benefits under the contracts, agreements and leases, including the right to amend, modify, extend, revise or terminate any of the contracts, agreements or leases, were irrevocably assigned to the Corporation for its exclusive benefit. As a consequence, no U.S. Government consent shall be required for any amendment, modification, extension, revision or termination of any of the contracts, agreement or leases. Subsections (3)(B) and (3)(C) provide that notwithstanding the transfer of the contracts, agreements and leases to the Corporation, the United States will remain obligated to the parties to the contracts, agreements and leases until such time as the contracts, agreements or leases are materially modified or terminated. In addition, the Corporation will be obligated to fully reimburse the United States for amounts paid by the United States for fulfilling obligations under the contracts, agreements and leases arising after the privatization date to the extent such amounts are legal and valid obligations of the Corporation then due.

Section 3039(c) simply authorizes the Corporation to establish prices for its products and services that will allow it to attain the normal business objectives of a profitmaking corporation.

Section 3039(d) amends section 1403 of the AEA by adding a new subsection (h) relating to the disposal of low-level radioactive waste and mixed waste created in the course of the Corporation's operations. It authorizes the Corporation to request that DOE accept low-level radioactive waste and mixed waste generated as a result of the operations of the facilities and related property leased by the Corporation from the Department or as a result of off-site treatment of such wastes. It further provides that all low-level radioactive wastes and mixed wastes that the Department accepts for treatment, storage, or disposal shall be deemed to be generated by the Department. The Corporation is directed to reimburse DOE for

the treatment, storage or disposal of such waste in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional or interstate compact entities of similar services. The section also authorizes the Corporation to enter into agreements for the treatment, storage or disposal of low-level radioactive waste and mixed waste with any person other than the Department that is authorized by applicable laws and regulations to treat, store or dispose of such wastes.

Section 3039(e) provides that liabilities based on operations of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States and that any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation during such period will be considered a judgment against the United States. In the event the privatization does not occur, the Corporation shall retain all liabilities based on operations of the Corporation from the transition date. After privatization, liabilities arising from operation of the uranium enrichment enterprise would be borne by the private investors of the Corporation.

Section 3039(f) adds a new section 1408 related to uranium transfers and sales. Section 1408(a) ensures that DOE will not provide uranium enrichment services nor transfer or sell any uranium except as provided by this section. Section 1408(b) establishes the process by which Russian highly-enriched uranium would be transferred to the United States and other parties. The language provides that the United States Executive Agent, under the Russian HEU agreement, shall transfer an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly-enriched uranium to the Secretary prior to December 31, 1996. The title to such material will reside with the Secretary, and within seven years of the privatization date of the USEC, the Secretary shall enter into contracts to sell this uranium hexafluoride for the following purposes: (a) for overfeeding; (b) for use outside the United States; or (c) for use within the United States not prior to January 1, 2002, and in volumes not exceeding three million pounds U3O8 annually.

After January 1, 1997, the Russian executive agent may request the return of uranium hexafluoride to a North American facility designated by the agent. Title to such material will reside with the Russian executive agent, and may be sold to any person consistent with the provisions of this section. If, for any reason, the Russian executive agent does not request the delivery of the natural uranium component of any low-enriched uranium within 90 days of delivery to the United States executive agent, then the United States agent shall auction such material. Such auction will be conducted by an independent party through a competitive bidding process, and proceeds from the auction, less transaction and administrative costs, will be paid to the Russian executive agent. Title to the material is transferred to the buyer upon delivery of such material.

Section 1408(b)(5) establishes limitations on the amount of Russian uranium hexafluoride available for U.S. consumption, graduating from two million pounds of U3O8 equivalent in 1998 to 16 million pounds of U3O8 equivalent in 2005 and each year thereafter.

In cases where Russian material is utilized in a "matched sale" of United States-origin material, or where Russian material is utilized for overfeeding purposes, such material is not subject to time or amount limitations.

Section 1408(c) authorizes the Secretary of Energy to transfer up to 50 metric tons of highly-enriched uranium and up to 7,000 metric tons of natural uranium without charge prior to the privatization date. The subsection also places restrictions on the uses of such uranium. Section 1408(d) allows the Secretary to sell excess uranium from the DOE stockpile, subject to certain limitations. Section 1408(e) allows the Secretary to transfer or sell low-enriched uranium to other Federal agencies, to other persons for national security purposes, or other entities for uses other than the generation of electricity for commercial use.

Sec. 3040. Privatization of the corporation

Section 3040(a) amends chapter 25, of Title II of the AEA by adding a new section 1503 that authorizes the Corporation to establish a corporation for purposes of implementing privatization and sets forth certain other matters with respect to such corporation. Under section 1503(a), the corporation may be organized under the laws of any State. The corporation will have among its purposes to help maintain a reliable and economical domestic source of uranium enrichment services and will be authorized to exercise the rights of the Corporation under the AEA, including enriching uranium. In addition, the corporation will have such purposes and powers as are set forth in its articles or certificate of incorporation and as are provided under the laws of the jurisdiction of its organization. For purposes of implementing the privatization, the Corporation is authorized to (i) transfer some or all of its assets (including funds, contracts and leases) and liabilities to the corporation, and (ii) merge or consolidate with the corporation if such action is contemplated by the plan for privatization approved by the President. The Board of Directors of the Corporation is authorized to approve such merger or consolidation and to take all further actions necessary in connection with it, without shareholder action. The section also provides that the merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation and all rights and benefits provided under the AEA to the Corporation shall apply to the surviving corporation as if it were the Corporation.

Section 1503(b) provides that for purposes of the regulation of radiological and non-radiological hazards under the Occupational Safety and Health Act of 1970, the corporation will be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission (NRC). Any interagency agreement entered into between the NRC and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities will apply to the corporation as if it were an NRC licensee.

Section 1503(c) provides the corporation will not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government con-

trolled corporation, and that obligations of the corporation will not be obligations of the United States.

Section 1503(d) provides that in the event the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted within 1 year of the date shares are first offered to the public pursuant to such public offering.

Section 1503(e) provides that the Secretary of Energy shall not allow the privatization by means of a public offering unless the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.

Section 3040(b) amends title II of the AEA by adding a new section 1504 which provides that if the privatization is implemented by a public offering, during the 3-year period following privatization, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The ownership limitation would not apply: First, to any employee stock ownership plan of the Corporation; second, to underwriting syndicates holding shares for resale; or third, in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees. Subsection (c) of Section 1504 provides that directors, officers and employees of the Corporation may not acquire any securities, or any right to acquire securities, of the Corporation: First, in the public offering implementing the privatization; second, pursuant to any agreement, arrangement or understanding entered into before the privatization date; or third, before the election of directors of the Corporation under section 1503(d), on any terms more favorable than those offered to the public. These protections are necessary to ensure that privatization decisions made by the officers, directors and employees of the Corporation benefit the public interest in maximizing the return to the taxpayer from the sale of this asset and to assure that personal financial considerations do not interfere with the decision-making process as various privatization options are considered. The provision ensures that stock options and employee benefits packages are delinked from the privatization process itself.

Section 3040(c) amends title II of the AEA by adding a new section 1505. Subsection (a) of section 1505 exempts each director, officer, employee and agent of the Corporation from liability if such person were fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person. Sections 1505(b) and 1505(c) provide that the privatization and offering or sale of securities shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. Under existing law, the Corporation is exempt from Federal securities laws until the privatization date. Sections 1505(b) and 1505(c) make clear that the Corporation's general exemption from the Federal securities laws, however, will not apply to the privatization transaction.

Section 3040(d) amends title II of the AEA by adding a new section 1506 that provides that the Corporation shall not be considered to be in breach, default, or violation of any agreement to

which it is a party because of any provision of chapter 25 or any action the Corporation is required to take thereunder. The section also states that the United States withdraws its consent to be sued with respect to any claim arising out of or resulting from any act or omission under chapter 25 of the AEA. Consequently, the United States will not be subject to any claims, for example, arising under the Federal securities laws in connection with the privatization transaction, notwithstanding the fact that under section 1505(b) the privatization is subject to the Securities Act of 1933 and the Securities Exchange Act of 1934.

Section 3040(e) amends title II of the AEA by adding a new section 1507 that provides that the proceeds to the U.S. Government from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act which generally prohibits counting asset sales as offsets to spending.

Section 3040(g) amends section 193 of the AEA by adding a new subsection (f) that provides that if the privatization of the Corporation results in the Corporation being (1) owned, controlled, or dominated by a foreign corporation or a foreign government, or (2) inimical to the common defense or security of the United States, then any license held by the Corporation under sections 53 and 63 of the AEA shall be terminated. This language ensures that uranium enrichment activities will be subject to the same foreign ownership limitations as any other nuclear production or utilization facility. It is expected that any interpretation of the terms in new subsection (f) would be consistent with the historical administrative interpretation of similar language in sections 103, 104 an 1502(a) of the AEA.

Section 3040(h) amends section 1502(d) of the AEA to provide that the Corporation may not implement its privatization plan less than 60 days after the date of the report to Congress by the Comptroller General under section 1502(c). The Comptroller General is obligated under section 1502(c) to deliver its report to Congress evaluating the privatization plan within 30 days of Congress being notified of the Corporation's intent to implement the privatization plan. Accordingly, the Corporation will now have a minimum waiting period of 90 days after notifying Congress of its intent to implement its privatization plan before the Corporation may actually implement the plan.

Sec. 3041. Periodic certification of compliance

This section provides that the Corporation shall be required to apply to the Nuclear Regulatory Commission for a certificate of compliance under section 1701(c)(1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years. This change will conform the certification requirement to existing NRC licensing timeframes.

Sec. 3042. Licensing of other technologies

Section 3042 amends section 1702(a) of the AEA to provide that Corporation facilities using AVLIS technology will be licensed

under sections 53 and 63 of the AEA. Other uranium enrichment technologies are currently eligible for one-step licensing, and this provision simply ensures equal treatment for all enrichment technologies.

Sec. 3043. Conforming amendments

This section provides for the repeal of certain provisions of the Atomic Energy Act. Upon privatization of the Corporation, certain provisions of the AEA generally relating to the organization and governance of the Corporation as a Federal Agency, as well as provisions granting the Corporation certain rights such as an exemption from State and local property taxes, would be inconsistent with the governance and rights of a corporation owned by private investors. Accordingly, such provisions are repealed following privatization. This Section also provides that following privatization, references to the Corporation under title I of the AEA shall be deemed to mean the Corporation referred to in section 1201 of the AEA, and section 9101(3)(N) of title 31 of the United States Code shall be deleted.

CHANGES IN EXISTING LAW MADE BY SUBTITLE C

The changes in existing law made by Subtitle C are included at the conclusion of report on this title of the bill.

SUBTITLE D—WASTE ISOLATION PILOT PLANT

PURPOSE AND SUMMARY

The purpose of Title III, Subtitle D, the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act," is to eliminate outdated statutory requirements for, and expedite the commencement of, operations at the Waste Isolation Pilot Plant [WIPP]. The WIPP is the nation's first repository for the permanent disposal of transuranic materials.

BACKGROUND AND NEED FOR LEGISLATION

I. Transuranic waste

Transuranic [TRU] elements—those with a periodic table value greater than uranium—are generally man-made products synthesized in laboratory conditions. The primary use of TRU materials in the United States is for the defense nuclear weapons program. Most TRU waste consists of trash, such as protective clothing, lab instruments, and equipment which has been contaminated by TRU isotopes. TRU waste is differentiated from other radioactive materials by the presence of TRU particles, which have gross radiation levels that are much lower than high-level wastes. The greatest danger from TRU waste is not from its effects on the body or from ingestion, but from inhalation of particles or entry into the bloodstream.

As a result, over 97 percent of TRU waste can be safely handled if shielded in an appropriate waste container, generally a 55-gallon steel drum or other steel container. The remaining 3 percent of TRU wastes must be remotely handled, due primarily to the presence of non-TRU radioactive materials which contain beta and

gamma radiation which can penetrate standard steel containers and require additional shielding for transportation and storage. TRU wastes are currently stored on-site at generating facilities, with a vast majority of these wastes being located at 10 different Department of Energy sites. Until 1970, TRU waste was disposed of in a manner similar to that used for low-level radioactive wastes, usually by burial in shallow earth trenches.

II. The waste isolation pilot plant

In 1970, the Atomic Energy Commission (forerunner of the Department of Energy) determined that TRU wastes should be handled in a more comprehensive fashion, and began siting studies which resulted in the decision to construct a facility about 26 miles east of Carlsbad, NM. Congress authorized the construction of the WIPP in 1979 as part of the Department of Energy National Security and Military. Application of Nuclear Energy Authorization Act (Public Law 96–164). Construction of the facility, located in a salt formulation about 2,100 feet below the earth's surface, began shortly thereafter. In 1992, Congress passed the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579) to transfer ownership of the land surrounding WIPP to the Department of Energy (DOE), and authorized the Department to begin underground experiments using TRU waste.

In October of 1993, DOE announced that it would forego on-site testing of waste at WIPP in favor of laboratory testing at the Sandia National Laboratories to determine the site's suitability for disposing of TRU waste. The testing was through a "performance assessment" of the WIPP, which utilizes a combination of non-waste tests at the site and laboratory mathematical models, and which will accurately predict the behavior of wastes to be stored at WIPP. The Environmental Protection Agency and the National Academy of Sciences supported DOE's decision to switch from on-site testing to laboratory testing. Additionally, a U.S. General Accounting Office report completed in December of 1994 concluded that the DOE testing strategy was sound and would conclusively determine WIPP site suitability.

III. Steps to progress

Operation of WIPP is a crucial step to the environmental remediation of TRU waste at facilities throughout the DOE weapons complex. The primary waste sites, along with currennt estimates of TRU wastes conntained at each site, are listed below:

DOE generator site	Waste volume (cubic feet)
Hanford Site, Washington	2,693,000
Idaho National Engineering Laboratory, Idaho	1,232,000
Savannah River Plant, South Carolina	1,037,000
Los Alamos National Laboratory, New Mexico	661,000
Rocky Flats Site, Colorado	248,000
Oak Ridge National Laboratory, Tennessee	84,000
Lawrence Livermore National Laboratory, California	32,000
Nevada Test Site, Nevada	22,000
Mound Laboratory, Ohio	9,000
Argonne National Laboratory, Illinois	1,000

As WIPP is to serve as the permanent repository for the TRU wastes at these and nine other sites with lesser waste volumes, the environmental remediation of these sites is dependent upon the opening of WIPP. Delays in opening the WIPP facility have contributed to a lack of movement on cleanup at these sites.

Construction of WIPP was completed in 1991. Opening the facility has been delayed since that time by several factors, including certification of compliance with applicable environmental regulations by the U.S. Environmental Protection Agency. One issue of contention has been the applicability of regulations under the Solid Waste Disposal Act (42 U.S.C. 6901–6991i) at WIPP. Currently, it is anticipated that WIPP will be subject to four major regulatory schemes: 40 CFR Part 191: Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes; 40 CFR Part 194: Criteria for the Certification and Determination of the Waste Isolation Pilot Plant's Compliance with Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes; 40 CFR Part 264: Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; and 40 CFR Part 268: Land Disposal Restrictions. The overlapping regulatory restrictions of these requirements have contributed to the lack of progress in opening the repository, and pose the risk of substantial cost increases in operating the facility. According to the Department of Energy's own estimates, complying with the overlapping requirements of 40 CFR Part 268: Land Disposal Restrictions could add up to an additional $500 million in operating costs at WIPP over the life of the facility.

As a result, the Subcommittee on Energy and Power focused particular attention on the requirements of 40 CFR Part 268, which govern land disposal restrictions and require that no migration of the waste involved will occur. According to DOE's testimony before the subcommittee, discontinuing the application of this requirement will not have a determinable impact on public health and safety at the facility. During questioning from Chairman Schaefer, DOE Carlsbad Area Office Manager George Dials stated:

> Mr. Chairman, it's our view that we don't necessarily need the overlapping regulation. We feel that compliance with both the 40 CFR 191, the radioactive waste standard, and with the hazardous waste disposal standard, 264, really should be sufficient from a technical perspective to protect the health and safety of the public or the environment * * *

Additionally, in correspondence to Senator Dirk Kempthorne dated September 8, 1995, EPA Assistant Administrator for Air and Radiation Mary Nichols and EPA Assistant Administrator for Solid Waste and Emergency Response Elliott Laws stated that:

> The Agency's view on whether a demonstration of no migration of hazardous constituents from the WIPP pursuant to RCRA Section 3004(d) would contribute any significant additional protection of human health and the environment is as follows: (1) The Agency believes that the human health and environmental hazards presented by the radio-

> active portion of the waste outweigh the hazards presented by the RCRA hazardous constituents portion of the waste; (2) The Agency also believes that compliance with its comprehensive regulatory scheme under the Atomic Energy Act (40 CFR Part 191), the extensive WIPP Compliance Criteria (40 CFR Part 194), and RCRA permit requirements (40 CFR 264) will also adequately protect human health and the environment from releases of RCRA hazardous constituents.
>
> In this light, the Agency, therefore, believes that in the narrow context of the WIPP, which is subject to comprehensive regulation under the AEA, the WIPP LWA, and RCRA, that a demonstration of no migration of hazardous constituents will not be necessary to adequately protect human health and the environment.

With both principal agencies in agreement on the superfluous nature of the current regulatory structure, it is clear that removing unnecessary regulatory burdens would have a beneficial effect on opening WIPP and in ensuring a responsible use of taxpayer funding during WIPP's operation.

The GAO report questioned DOE's assertion that it could open the facility by its announced January 1998 deadline, determining that a January 2000 opening was more likely. Since the release of the GAO report, DOE has revised its schedule for opening WIPP, anticipating a June 1998 opening for contact-handled waste, and a post-2000 date for remotely handled TRU waste operation. With broad agreement that in-situ testing will not be necessary to make a site suitability determination, it is important to remove statutory hurdles related to in-situ testing.

HEARINGS

The Energy and Power Subcommittee held a hearing on July 21, 1995, to examine possible revisions to the Waste Isolation Pilot Plant Land Withdrawal Act proposed by Representative Skeen in H.R. 1663. Witnesses at the hearing included Representative Joe Skeen; Mr. George Dials, Manager, Carlsbad area office, U.S. Department of Energy; Ms. Ramona Travato, Director, Office of Radiation and Indoor Air, U.S. Environmental Protection Agency; Ms. Bernice Steinhardt, Associate Director, Energy and Science Issues, U.S. General Accounting Office; Ms. Jennifer Salisbury; secretary of energy, minerals and natural resources, State of New Mexico; Mr. Lindsay Lovejoy, attorney, office of the attorney general, State of New Mexico; The Honorable Gary Perkowski, mayor, city of Carlsbad; Mr. Don Hancock, director, nuclear waste safety project, Southwest Research and Information Center; and Mr. Stephen P. Winston, vice president for technical integration and mission development, Lockheed Martin.

COMMITTEE CONSIDERATION

On July 28, 1995, the Subcommittee on Energy and Power met in open session to consider H.R. 1663, the Waste Isolation Pilot Plant Land Withdrawal Amendment Act. The subcommittee ap-

proved H.R. 1663 for full committee consideration, without amendment, by a voice vote, a quorum being present.

On September 13, 1995, the committee met in open session and ordered subtitle D, the Waste Isolation Pilot Plant Land Withdrawal Amendment Act, transmitted to the House Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act by a rollcall vote of 24 yeas to 12 nays.

ROLLCALL VOTES

Pursuant to clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, following are listed the recorded votes on the motion to order subtitle D transmitted to the House Committee on the Budget and on amendments thereto, including the names of those members voting for and against.

ROLLCALL VOTE NO. 62

Bill: Committee print entitled ''Waste Isolation Pilot Project.''

Quorum Call: 26 members answered present.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley			X	Mr. Dingell			X
Mr. Moorhead			X	Mr. Waxman			
Mr. Tauzin			X	Mr. Markey			X
Mr. Fields				Mr. Wyden			
Mr. Oxley			X	Mr. Hall			
Mr. Bilirakis			X	Mr. Bryant			
Mr. Schaefer			X	Mr. Boucher			
Mr. Barton				Mr. Manton			
Mr. Hastert			X	Mr. Towns			
Mr. Upton				Mr. Studds			
Mr. Stearns			X	Mr. Pallone			X
Mr. Paxon				Mr. Brown			X
Mr. Gillmor				Mrs. Lincoln			X
Mr. Klug			X	Mr. Gordon			
Mr. Franks			X	Ms. Furse			X
Mr. Greenwood				Mr. Deutsch			
Mr. Crapo				Mr. Rush			X
Mr. Cox				Ms. Eshoo			X
Mr. Deal				Mr. Klink			X
Mr. Burr			X	Mr. Stupak			X
Mr. Bilbray			X				
Mr. Whitfield			X				
Mr. Ganske			X				
Mr. Frisa			X				
Mr. Norwood							
Mr. White							
Mr. Coburn			X				

ROLLCALL VOTE NO. 67

Bill: Committee print entitled ''Waste Isolation Pilot Project.''

Amendment: Amendment by Mr. Pallone re: restore compliance with RCRA no-migration standards.

Disposition: Not agreed to, by a rollcall vote of 15 yeas to 22 nays.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley		X		Mr. Dingell	X		
Mr. Moorhead				Mr. Waxman			
Mr. Tauzin		X		Mr. Markey	X		

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Fields		X		Mr. Wyden	X		
Mr. Oxley		X		Mr. Hall	X		
Mr. Bilirakis		X		Mr. Bryant			
Mr. Schaefer		X		Mr. Boucher		X	
Mr. Barton				Mr. Manton	X		
Mr. Hastert		X		Mr. Towns			
Mr. Upton		X		Mr. Studds			
Mr. Stearns		X		Mr. Pallone	X		
Mr. Paxon				Mr. Brown	X		
Mr. Gillmor		X		Mrs. Lincoln	X		
Mr. Klug				Mr. Gordon			
Mr. Franks		X		Ms. Furse	X		
Mr. Greenwood				Mr. Deutsch	X		
Mr. Crapo		X		Mr. Rush	X		
Mr. Cox		X		Ms. Eshoo	X		
Mr. Deal		X		Mr. Klink	X		
Mr. Burr		X		Mr. Stupak	X		
Mr. Bilbray		X					
Mr. Whitfield		X					
Mr. Ganske		X					
Mr. Frisa		X					
Mr. Norwood		X					
Mr. White		X					
Mr. Coburn		X					

ROLLCALL VOTE NO. 68

Bill: Committee print entitled "Waste Isolation Pilot Project."

Motion: Motion by Mr. Bliley to order the committee print entitled "Waste Isolation Pilot Project" transmitted to the Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act.

Disposition: Agreed to, by a rollcall of 24 yeas to 12 nays.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley	X			Mr. Dingell		X	
Mr. Moorhead	X			Mr. Waxman		X	
Mr. Tauzin	X			Mr. Markey		X	
Mr. Fields	X			Mr. Wyden		X	
Mr. Oxley	X			Mr. Hall	X		
Mr. Bilirakis	X			Mr. Bryant			
Mr. Schaefer	X			Mr. Boucher			
Mr. Barton				Mr. Manton		X	
Mr. Hastert				Mr. Towns			
Mr. Upton	X			Mr. Studds			
Mr. Stearns	X			Mr. Pallone			
Mr. Paxon	X			Mr. Brown		X	
Mr. Gillmor				Mrs. Lincoln	X		
Mr. Klug	X			Mr. Gordon		X	
Mr. Franks	X			Ms. Furse		X	
Mr. Greenwood				Mr. Deutsch		X	
Mr. Crapo				Mr. Rush	X		
Mr. Cox				Ms. Eshoo		X	
Mr. Deal	X			Mr. Klink		X	
Mr. Burr	X			Mr. Stupak		X	
Mr. Bilbray	X						
Mr. Whitfield	X						
Mr. Ganske	X						
Mr. Frisa	X						
Mr. Norwood	X						
Mr. White	X						
Mr. Coburn	X						

VOICE VOTES

Bill: Committee print entitled "Waste Isolation Pilot Project."

Amendment: Amendment by Mr. Markey re: strike the provisions removing EPA's certification authority.

Disposition: Not agreed to, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Energy and Power held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the committee believes that enactment of subtitle D would result in no additional costs to the Federal Government.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(c) of rule XI of the Rules of the House of Representatives, a letter from the congressional budget office providing a cost estimate for all six subtitles of Title III is found at the conclusion of title XVII of this bill.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee finds that subtitle D would have no inflationary impact.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 3045. Short Title and Reference

The section states that the short title of this Act shall be the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act" and provides that references in this Act, unless specified, are references to the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579).

Sec. 3046. Definitions

The section deletes definitions for "test phase" and "test phase activities". With the repeal of test phase requirements currently in statute, no need for these definitions will exist.

Sec. 3047. Test phase and retrieval plans

Section 3047 repeals Section 5 of Public Law 102–579, pertaining to test phase and retrieval plans. With the decision to forego in-situ testing, the section is no longer needed.

Sec. 3048. Test phase activities

Section 6 of Public Law 102–579, which relates to requirements for the commencement of test phase activities, is repealed. The committee retains current provisions requiring studies of an analysis of the impact remote-handled waste will have on WIPP and an analysis of the long-term performance of the facility. These studies will be useful in assessing the safety and performance of WIPP.

Sec. 3049. Disposal operations

The section eliminates Section 7(b) of Public Law 102–579, which requires completion of certain activities prior to the emplacement of waste at WIPP, including certification of the facility by the Environmental Protection Agency and completion of a survey of all TRU wastes at all generating sites.

Sec. 3050. Environmental Protection Agency disposal regulations

This section eliminates EPA certification of the WIPP facility, and amends the mandatory requirement for use of both engineered and natural barriers to intrusion to a discretionary requirement for the Secretary. EPA retains an advisory role to DOE during the certification process. Additionally, the committee expects that EPA could have an ongoing regulatory role at the site under RCRA, the Clean Air Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and any other applicable Federal law. The U.S. Mine Safety and Health Administration also retains regulatory oversight, as well as the State of New Mexico under RCRA.

Sec. 3051. Compliance with environmental laws and regulations

The applicability of environmental statues is amended to eliminate RCRA "no migration" requirements (40 CFR Part 268). With the protections offered under parts 191, 194 and 264, the part 268 requirement is an overlapping regulatory mandate and is not necessary to protect human health and the environment.

Sec. 3052. Retrievability

This section eliminates test phase retrievability requirements and replaces them with a new section requiring the Secretary to make a decision regarding use of the WIPP facility no later than March 31, 1997. Requirements relating to in-situ testing are not needed with the decision to utilize laboratory testing for a determination of site suitability.

Sec. 3053. Decommissioning of WIPP

This section eliminates requirements for the Secretary to submit a plan for the decommissioning of WIPP by 1997, while retaining the requirement for the Secretary to develop such a plan. The decommissioning plan is not integral to the commencement of operations at WIPP.

Sec. 3054. Economic assistance and miscellaneous payments

The limitation on assistance to the State of New Mexico is eliminated, and replaced with the requirement that the benefits schedule established under the Act commence on the date of enactment of this act. This will ensure that funding for needed infrastructure

improvements in the State of New Mexico is made available in a timely manner.

Sec. 3055. Non-defense waste

This provision allows the Secretary to accept TRU waste from non-defense activities. Such waste comprises a very limited percentage of the total amount of TRU waste, and WIPP is the only facility presently capable of handling such material for permanent disposal.

CHANGES IN EXISTING LAW MADE BY SUBTITLE D

The changes in existing law made by subtitle D are included at the conclusion of the report of this title of the bill.

SUBTITLE E—NAVAL PETROLEUM RESERVES

PURPOSE AND SUMMARY

The purpose of subtitle E is to privatize the Naval Petroleum Reserves [NPR], including the Naval Oil Shale Reserves [NOSR]. This legislation directs the Secretary of Energy to sell, by December 31, 1996, all of the United States' interest in the Naval Petroleum Reserves.

BACKGROUND AND NEED FOR LEGISLATION

The Naval Petroleum Reserves, which include the Naval Oil Shale Reserves, were established early in the 1900's to ensure fuel supplies for the military. The Naval Petroleum Reserves consist of three oil reserve properties and three oil shale properties. Naval Petroleum Reserve No. 1 [NPR–1] is located at Elk Hills in Kern County, CA and is the most valuable of these reserves. NPR–1 is one of the 10 largest oil fields in the United States and produces approximately 66,000 barrels of oil per day. The bulk of the Elk Hills filed, 78 percent, is owned by the U.S. Government. The remaining 22 percent is owned by Chevron. Naval Petroleum Reserve No. 2 is located at Buena Vista Hills, CA, and is adjacent to Naval Petroleum Reserve No. 1. The United States owns 34.6 percent of Naval Petroleum Reserve No. 2, and the remainder is privately owned. Naval Petroleum Reserve No. 3, Teapot Dome, WY, is owned entirely by the Federal Government. Naval Oil Shale Reserves No. 1 and No. 3 are adjacent oil shale reserves located west of Rifle, CO, in Garfield County. Except for small private oil shale claims at Naval Oil Shale Reserve No. 1, all lands and minerals at Naval Oil Shale Reserve Nos. 1 and 3 are Federally owned. Naval Oil Shale Reserve No. 2 is located in Carbon and Uintah Counties, UT. All of the minerals at this reserve are owned by the United States except for those contained on States lands and homestead entries.

Despite their designation as Naval Petroleum Reserves, these reserves have never been used to supply oil to the military. In fact, it wasn't until the Arab oil embargo of 1973 that significant commercial production of the fields began. The national defense purpose of these reserves no longer exists. The Department of Defense has stated that it does not require the reserves for defense pur-

poses. From a readiness standpoint, a military emergency would require procurement and immediate distribution of refined products such as aviation fuel, not crude oil.

Since 1976, the fields have generated $12.8 billion in revenues for the U.S. Treasury. However, the fields are now in decline. For example, Naval Petroleum Reserve No. 1 reached its peak rate of oil production of 181,000 barrels of oil per day in July 1981. In September, 1993, it was producing approximately 66,000 barrels of oil per day. Over the past six years, net revenues from the reserves have declined over 45 percent. Further, the Department of Energy projects that hydrocarbon revenues will continue to decline and expenses to operate the field will continue to increase. As the most prolific oil-bearing reservoirs are being depleted, costs to extract the oil from the ground are increasing, and market prices for hydrocarbons are stable or declining, this resource will become less valuable to the United States.

In addition, the Department of Energy is no longer able to make the necessary investments in these fields to produce them efficiently. Since the Federal Government is not in the business of making money, it is not able to operate the reserves as a private owner would. When requesting funds to operate there serves, the Department of Energy must balance that request with competing programs. This has limited the Department's ability to make capital investments in the reserves that would have been routine for the private sector. For example, a private owner is able to reinvest its annual revenues to improve operations and enhance profitability. By contrast, revenues from the reserves are deposited into the U.S. Treasury, and DOE must rely on the appropriations process for funding.

Similary, a private owner can respond quickly to take advantage of changing markets and make long-term plans for the development of oil properties. The lengthy Federal budget process precludes both rapid decision-making and, because of the unpredictability of the budget, it is difficult to guarantee funding for longer term capital investments. Thus, the Department of Energy does not have the ability to operate these fields in the most profitable manner. These shortcomings will only become more severe as the expenses at these fields go up and the Federal budget becomes smaller.

That the U.S. Government has been a poor operator of the reserves is obvious. For example, private oil companies in California employ an average of 17 workers for every 100 wells, compared with over 50 workers per 100 wells for Bechtel, the government contract operator of Elk Hills. Likewise, at the Naval Oil Shale Reserves between 1977 and 1993, the Federal Government has spent $30,759,929.00. During that same time period, revenues from the Naval Oil Shale Reserves was $8,540,770.00. Clearly this has not been a cost-effective operation.

Sections 3071 and 3072 of Subtitle E get the Federal Government out of the oil business. This makes sense for several reasons. One, being in business is an inappropriate role for government and it is clear that the government, once in business, has proven to have very poor business judgment. Two, revenue from privatization of the reserves can be used to reduce the Federal deficit. The re-

serves are a valuable asset of the U.S. Government and should be sold for their maximum value. Current market conditions are favorable for such a sale because there is currently a positive outlook for commodity prices, favorable liquidity and access to capital among prospective purchasers, and a limited supply of comparable properties for sale. In addition, subtitle E requires a sale through a competitive bidding process, requires independent valuation of the assets, and gives the Secretary of Energy the flexibility to package the sale in a manner that will result in the highest return to the Federal Government.

Finally, it is important to note that the NPR and the NOSR are not emergency reserves designed to mitigate negative impacts caused by disruptions in oil supplies in the same way that the Strategic Petroleum Reserve is intended. Since Congress authorized its production in 1976, the reserves changed from being a strategic energy reserve for the military to a source of oil for the U.S. economy and a revenue raiser for the Federal Government. Basically, the Naval Petroleum and Oil Shale Reserves are oil and gas fields owned by the Federal Government from which oil and gas are produced and sold on the open market just as if the fields were privately owned.

HEARINGS

The Subcommittee on Energy and Power held an oversight hearing on the Privatization of the Naval Petroleum Reserves on September 8, 1995. Testifying at that hearing were: Patricia Fry Godley, Assistant Secretary for Fossil Energy, Department of Energy; Mike Stay, Program Director for Elk Hills, Chevron; Rodman Patton, Managing Director, Merrill Lynch and Co.; Edwin Rothschild, Energy Policy Director, Citizen Action; and Albert G. Boyce, President, California Independent Petroleum Association.

COMMITTEE CONSIDERATION

On September 13, 1995, the committee met in open session and ordered subtitle E transmitted to the House Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act, as amended, by a voice vote, a quorum being present.

ROLLCALL VOTES

Pursuant to clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, following are listed the recorded votes on the motion to order subtitle E transmitted to the House Committee on the Budget, and on amendments thereto, including the names of those members voting for and against.

ROLLCALL VOTE NO. 62

Bill: Committee print entitled "Naval Petroleum Reserves."

Quorum call: 26 members answered present.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley			X	Mr. Dingell			X
Mr. Moorhead			X	Mr. Waxman			

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Tauzin			X	Mr. Markey			X
Mr. Fields				Mr. Wyden			
Mr. Oxley			X	Mr. Hall			
Mr. Bilirakis			X	Mr. Bryant			
Mr. Schaefer			X	Mr. Boucher			
Mr. Barton				Mr. Manton			
Mr. Hastert			X	Mr. Towns			
Mr. Upton				Mr. Studds			
Mr. Stearns			X	Mr. Pallone			X
Mr. Paxon				Mr. Brown			X
Mr. Gillmor				Mrs. Lincoln			X
Mr. Klug			X	Mr. Gordon			
Mr. Franks			X	Ms. Furse			X
Mr. Greenwood				Mr. Deutsch			
Mr. Crapo				Mr. Rush			X
Mr. Cox				Ms. Eshoo			X
Mr. Deal				Mr. Klink			X
Mr. Burr			X	Mr. Stupak.			
Mr. Bilbray			X				
Mr. Whitfield			X				
Mr. Ganske			X				
Mr. Frisa			X				
Mr. Norwood							
Mr. White							
Mr. Coburn			X				

ROLLCALL VOTE NO. 64

Bill: Committee print entitled "Naval Petroleum Reserves."

Amendment: Amendment by Mr. Klug re: set aside 7 percent of the proceeds of the sale of the California reserve into an escrow account until a settlement is reached between the Federal Government and the State of California.

Disposition: Agreed to, by a roll call vote of 21 yeas to 18 nays.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley		X		Mr. Dingell			
Mr. Moorhead		X		Mr. Waxman			X
Mr. Tauzin	X			Mr. Markey	X		
Mr. Fields		X		Mr. Wyden			
Mr. Oxley		X		Mr. Hall	X		
Mr. Bilirakis		X		Mr. Bryant	X		
Mr. Schaefer		X		Mr. Boucher	X		
Mr. Barton		X		Mr. Manton	X		
Mr. Hastert		X		Mr. Towns			
Mr. Upton	X			Mr. Studds			
Mr. Stearns		X		Mr. Pallone	X		
Mr. Paxon		X		Mr. Brown	X		
Mr. Gillmor				Mrs. Lincoln	X		
Mr. Klug	X			Mr. Gordon	X		
Mr. Franks		X		Ms. Furse	X		
Mr. Greenwood				Mr. Deutsch	X		
Mr. Crapo				Mr. Rush	X		
Mr. Cox		X		Ms. Eshoo		X	
Mr. Deal	X			Mr. Klink		X	
Mr. Burr	X			Mr. Stupak	X		
Mr. Bilbray		X					
Mr. Whitfield		X					
Mr. Ganske	X						
Mr. Frisa		X					
Mr. Norwood	X						
Mr. White		X					
Mr. Coburn							

ROLLCALL VOTE NO. 65

Bill: Committee print entitled "Naval Petroleum Reserves."

Amendment: Amendment by Mr. Markey re: permit termination of the unit plan agreement prior to or at the time of sale or transfer.

Disposition: Not agreed to, by a rollcall vote of 15 yeas to 24 nays.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley		X		Mr. Dingell	X		
Mr. Moorhead				Mr. Waxman			
Mr. Tauzin		X		Mr. Markey	X		
Mr. Fields		X		Mr. Wyden			
Mr. Oxley		X		Mr. Hall		X	
Mr. Bilirakis		X		Mr. Bryant	X		
Mr. Schaefer		X		Mr. Boucher	X		
Mr. Barton				Mr. Manton	X		
Mr. Hastert		X		Mr. Towns			
Mr. Upton		X		Mr. Studds			
Mr. Stearns		X		Mr. Pallone	X		
Mr. Paxton		X		Mr. Brown	X		
Mr. Gillmor		X		Mrs. Lincoln	X		
Mr. Klug		X		Mr. Gordon	X		
Mr. Franks		X		Ms. Furse	X		
Mr. Greenwood				Mr. Deutsch	X		
Mr. Crapo				Mr. Rush	X		
Mr. Cox		X		Ms. Eshoo	X		
Mr. Deal		X		Mr. Klink	X		
Mr. Burr		X		Mr. Stupak	X		
Mr. Bilbray		X					
Mr. Whitfield		X					
Mr. Ganske		X					
Mr. Frisa		X					
Mr. Norwood		X					
Mr. White		X					
Mr. Coburn		X					

ROLLCALL VOTE NO. 66

Bill: Committee print entitled "Naval Petroleum Reserves."

Amendment: Amendment by Mr. Brown re: give the Department of Energy and the Office of Management and Budget authority to stop the sale if certain conditions are not met.

Disposition: Not agreed to, by a rollcall vote of 15 yeas to 21 nays.

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Bliley		X		Mr. Dingell	X		
Mr. Moorhead				Mr. Waxman			
Mr. Tauzin		X		Mr. Markey	X		
Mr. Fields		X		Mr. Wyden	X		
Mr. Oxley		X		Mr. Hall			
Mr. Bilirakis		X		Mr. Bryant			
Mr. Schaefer		X		Mr. Boucher	X		
Mr. Barton				Mr. Manton	X		
Mr. Hastert		X		Mr. Towns			
Mr. Upton		X		Mr. Studds			
Mr. Stearns				Mr. Pallone	X		
Mr. Paxon		X		Mr. Brown	X		
Mr. Gillmor				Mrs. Lincoln	X		
Mr. Klug		X		Mr. Gordon	X		
Mr. Franks		X		Ms. Furse	X		

Representative	Yeas	Nays	Present	Representative	Yeas	Nays	Present
Mr. Greenwood				Mr. Deutsch	X		
Mr. Crapo				Mr. Rush	X		
Mr. Cox		X		Ms. Eshoo	X		
Mr. Deal		X		Mr. Klink	X		
Mr. Burr		X		Mr. Stupak	X		
Mr. Bilbray		X					
Mr. Whitfield		X					
Mr. Ganske		X					
Mr. Frisa		X					
Nr. Norwood		X					
Mr. White		X					
Mr. Coburn		X					

COMMITTEE ON COMMERCE—104TH CONGRESS—VOICE VOTES

Bill: Committee print entitled "Naval Petroleum Reserves."

Amendment: Amendment by Mr. Schaefer re: extend the date for the Secretary of Energy to finalize the sale of the Naval Petroleum Reserves.

Disposition: Agreed to, by a voice vote.

Amendment: Amendment by Mr. Dingell re: eliminate provisions which held purchasers harmless from claims or liability resulting from U.S. ownership of property.

Disposition: Withdrawn, by unanimous consent.

Motion: Motion by Mr. Bliley to order the committee print entitled "Naval Petroleum Reserves," as amended, transmitted to the Committee on the Budget for inclusion in the fiscal year 1996 Omnibus Budget Reconciliation Act.

Disposition: Agreed to, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Purusant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Energy and Power held an oversight hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the committee believes that enactment of subtitle E would result in no additional costs to the Federal Government.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, a letter from the Congressional Budget Office providing a cost estimate for all six subtitles of title III is found at the conclusion of title XVII of this bill.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee finds that subtitle E would have no inflationary impact.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 3071 of subtitle E provides that the short title of the subtitle is the Naval Petroleum Reserve Privatization Act of 1995.

Section 3072 adds a new subsection which provides for sale of the reserves to the highest bidder by December 31, 1996. In order to ensure that maximum value is received for the reserves, subsection (b) provides that by January 1, 1996, five independent oil and gas valuation experts shall be hired by the Secretary of Energy to conduct separate assessments of the fair market value of the United States' interest in the reserves. Equipment and facilities located on the reserves shall be included in the valuation. The experts are also directed to value the net present value of the anticipated revenue stream the Treasury would receive from the reserve if it was not sold, adjusted for any anticipated increase in tax revenues which could result from the sale.

The independent experts' valuations are to be completed not later than July 1, 1996, and the Secretary of Energy shall set a minimum acceptable price for each reserve based on the average of the valuations. The Secretary is also directed to hire an investment banker no later than March 1, 1996, to administer the sale and assure that the sale is conducted in a manner that maximizes return to the Federal treasury. The investment banker is directed to complete a draft contract for the sale of each reserve which shall be included in the invitation for bids.

The Secretary shall invite bids for the purchase of the reserves not later than September 1, 1996, and shall accept the highest responsible offer (that meets the minimum acceptable bid) not later than November 1, 1996. Importantly, subtitle E allows the Secretary to accept an offer for only a portion of a reserve as long as the entire reserve is still sold at the price that meets or exceeds the minimum acceptable price. Under subsection (c), the United States shall hold purchasers harmless for claims arising as a result of ownership in the reserve by the United States.

Subsection (d) provides that by June 1, 1996, the Secretary shall finalize equity interests in NPR–1. The Secretary is directed to retain an independent petroleum engineer mutually acceptable to the equity owners to prepare a recommendation on final equity figures. If the equity redetermination is not resolved by the effective date of the subsection, the dispute shall be resolved in the manner provided by the unit plan contract.

Subsection (e) of section 3072 preserves the current 25 percent set aside for small refiners for use in their refineries. Thus, whoever purchases NPR–1 would have to offer up to 25 percent of petroleum produced from the reserve for purchase by small refiners. None of the reserved production sold to small refiners may be resold in kind. In addition, the seller of the petroleum has the right to refuse bids that are less than the prevailing market price of comparable oil.

Subsection (f) provides that NPR–1 shall continue to be operated at the maximum daily oil or gas rate until the sale is completed. With respect to NPR–1, subsection (g) provides that contracts for purchase of petroleum shall remain in effect up to 3 months after the closing date of the sale. Contracts entered into after enactment of this legislation shall not exceed the anticipated closing date for the sale of the reserve. Subsection (g) also gives the Secretary the authority to terminate the operating contract between the Department and Bechtel at NPR–1. The unit plan contract is also terminated with the closing of the sale of NPR–1.

Subsection (h) provides for 7 percent of the sale proceeds from the sale to be placed in an escrow account to be paid to the California Teachers Retirement Fund in the event the fund is successful in its claim for a portion of the revenues from the sale. Although the California Teachers Retirement Fund lost a litigation claim to a portion of the proceeds from the NPR–1 while it was in Federal control, the State of California plans to revive its suit if the reserve is to be sold into the private sector.

Subsection (i) makes it clear that subtitle E does not alter the application of the antitrust laws to the purchaser(s) of the reserves. Subsection (j) clarifies that subtitle E does not adversely impact the ownership interests any other entities have in the reserves. Finally, subsection (k) provides that the Secretary shall not enter into a contract for the sale of the reserves until 15 days after the Secretary notifies the House Commerce and National Security Committees and the Senate Armed Services Committee.

CHANGES IN EXISTING LAW MADE BY SUBTITLE E

The changes in existing law made by subtitle E are included at the conclusion of the report of this title of the bill.

CHANGES IN EXISTING LAW MADE BY TITLE III OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * * * *

TITLE I—GENERAL PROVISIONS

* * * * * * *

SEC. 4. PROVISIONS RELATING TO THE COMMISSION.

(a) * * *

* * * * * * *

(f)(1) The Commission shall have authority, subject to the provisions of the civil-service laws and the Classification Act of 1949, as amended, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions. *The Commission may also procure*

the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily rate equivalent to the maximum rate payable for senior-level positions under section 5276 of title 5, United States Code.

* * * * * * *

(3) The Commission shall fix a reasonable rate of extra compensation for overtime services of engineers in charge and radio engineers of the Field Engineering and Monitoring Bureau of the Federal Communications Commission, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of part II of title III of this Act or the Great Lakes Agreement, on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative, who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account: *Provided,* That the amounts of such collections received by the said collector of customs or his representatives shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Commission: *Provided further,* That to the extent that the annual appropriations which are hereby authorized to be made from the general fund of the Treasury are insufficient, there are hereby authorized to be appropriated from the general fund of the Treasury such additional amounts as may be necessary to the extent that the amounts of such receipts are in excess of the amounts appropriated: *Provided further,* That such extra compensation shall be paid if such field employees have been ordered to report for duty and have so reported whether the actual inspection of the radio equipment or apparatus takes place or not: *And provided further,* That in those ports where customary working hours are other than those hereinabove mentioned, the engineers in charge are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports where inspections are to be made, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the engineers in charge and radio engineers or the overtime pay herein fixed*: And provided further, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph.*

* * * * * * *

(g)(1) * * *

[(2)(A) If—

[(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

[(ii) such attendance and participation are in furtherance of the functions of the Commission; and

[(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

[(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

[(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

[(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1994.

[(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.]

(2) The Commission shall submit to the appropriate committees of Congress, and publish in the Federal Register, semiannual reports specifying the reimbursements which the Commission has accepted under section 1353 of title 31, United States Code.

* * * * * * *

SEC. 5. ORGANIZATION AND FUNCTIONING OF THE COMMISSION.

(a) * * *

* * * * * * *

(c)(1) When necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, the Commission may, by published rule or by order, delegate any of its functions (except functions granted to the Commission by this paragraph and by paragraphs (4), (5), and (6) of this subsection and except any action referred to in sections 204(a)(2), 208(b), and 405(b)) to a panel of commissioners, an individual commissioner, an employee board, or an individual employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter; except that in delegating review functions to employees in cases of adjudication (as defined in the Administrative Procedure Act), the delegation in any such case may be made only to an employee board consisting of two or more employees referred to in paragraph (8). Any such rule or order may be adopted, amended, or rescinded only by a vote of a majority of the members of the Commission then holding office. [Nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in clauses (2) and (3) of section 7(a) of the Administrative Procedure Act, of any hearing to which such section 7(a) ap-

plies.] *Except for cases involving the authorization of service in the Instructional Television Fixed Service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.*

* * * * * * *

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[(a) There are authorized to be appropriated for the administration of this Act by the Commission $109,831,000 for fiscal year 1990 and $119,831,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

[(b) In addition to the amounts authorized to be appropriated under this section, not more than 4 percent of the amount of any fees or other charges payable to the United States which are collected by the Commission during fiscal year 1990 are authorized to be made available to the Commission until expended to defray the fully distributed costs of such fees collection.

[(c) Of the amounts appropriated pursuant to subsection (a) for fiscal year 1991, such sums as may be necessary not to exceed $2,000,000 shall be expended for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory located in Laurel, Maryland.

[(d) Of the sum appropriated in any fiscal year under this section, a portion, in an amount determined under section 9(b), shall be derived from fees authorized by section 9.]

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the administration of this Act by the Commission $186,000,000 for fiscal year 1996, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1996. Of the sum appropriated in each fiscal year under this section, a portion, in an amount determined under sections 8(b) and 9(b), shall be derived from fees authorized by sections 8 and 9.

* * * * * * *

SEC. 8. APPLICATION FEES.

(a) The Commission shall assess and collect application fees at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.

[(b)(1) The Schedule of Application Fees established under this section shall be reviewed by the Commission every two years after October 1, 1991, and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in application fees shall apply to all categories of application fees, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least $5.00 in

the case of fees under $100.00, or 5 percent in the case of fees of $100.00 or more. All fees which require adjustment will be rounded upward to the next $5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

[(2) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.]

(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

(A) $40,000,000; plus

(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.

* * * * * * *

[(e) Moneys received from application fees established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.]

(e) Of the moneys received from fees authorized under this section—

(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

* * * * * * *

(g) Until modified pursuant to subsection (b) of this section, the Schedule of Application Fees which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

SCHEDULE OF APPLICATION FEES

Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations	
* * * * * * *	
11. Amateur vanity call signs	*150.00*
* * * * * * *	
COMMON CARRIER SERVICES	
1. All Common Carrier Services	
* * * * * * *	
22. Low-Earth Orbit Satellite Systems	
* * * * * * *	
23. Personal communications services	
a. Initial or new application	*230.00*
b. Amendment to pending application	*35.00*
c. Application for assignment or transfer of control	*230.00*
d. Application for renewal of license	*35.00*
e. Request for special temporary authority	*200.00*
f. Notification of completion of construction	*35.00*
g. Request to combine service areas	*50.00*
* * * * * * *	

SEC. 9. REGULATORY FEES.

(a) GENERAL AUTHORITY.—

(1) RECOVERY OF COSTS.—The Commission, in accordance with this section, shall assess and collect regulatory fees to recover the costs of the following regulatory activities of the Commission: enforcement activities, policy and rulemaking activities, user information services, and international activities, *and all executive and legal costs incurred by the Commission in the discharge of these functions.*

* * * * * * *

(b) ESTABLISHMENT AND ADJUSTMENT OF REGULATORY FEES.—

(1) * * *

* * * * * * *

(4) NOTICE TO CONGRESS.—The Commission shall—

(A) transmit to the Congress notification of any adjustment made pursuant to paragraph (2) immediately upon the adoption of such adjustment; and

(B) transmit to the Congress notification of any amendment made pursuant to paragraph (3) not later than [90] *45* days before the effective date of such amendment.

(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).

* * * * * * *

(g) SCHEDULE.—Until amended by the Commission pursuant to subsection (b), the Schedule of Regulatory Fees which the Federal Communications Commission shall, subject to subsection (a)(2), assess and collect shall be as follows:

SCHEDULE OF REGULATORY FEES

Bureau/Category	Annual Regulatory Fee
Private Radio Bureau	
* * * * * * *	
[Amateur vanity call-signs	7]
Mass Media Bureau (per license)	
* * * * * * *	
TV (47 CFR Part 73)	
VHF Commercial	
Markets 1 thru 10	18,000
* * * * * * *	
Construction permits	4,000
Terrestrial television satellite operations	*500*
UHF Commercial	
Markets 1 thru 10	14,400
* * * * * * *	
Construction permits	3,200
Terrestrial television satellite operations	*500*
* * * * * * *	

(h) EXCEPTIONS.—The charges established under this section shall not be applicable to (1) governmental entities or nonprofit entities; or (2) to amateur radio operator licenses under part 97 of the Commission's regulations (47 CFR Part 97). *The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.*

[(i) ACCOUNTING SYSTEM.—The Commission shall develop accounting systems necessary to making the adjustments authorized by subsection (b)(3). In the Commission's annual report, the Commission shall prepare an analysis of its progress in developing such systems and shall afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in subsection (a) among the services in the Schedule.]

SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to sub-

mit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

(3) DEFINITION.—For purposes of this subsection, the term "amount requested by the President's budget" shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.

TITLE II—COMMON CARRIERS

* * * * * * *

SEC. 203. SCHEDULES OF CHARGES.

(a) * * *

* * * * * * *

(d) The Commission may reject and refuse to file any schedule entered for filing which does not provide and give lawful notice of its effective date. *The Commission may, after affording interested parties an opportunity to comment, reject a proposed tariff filing in whole or in part, if the filing or any part thereof is patently unlawful. In evaluating whether a proposed tariff filing is patently unlawful, the Commission may consider additional information filed by the carrier or any interested party and shall presume the facts alleged by the carrier to be true.* Any schedule so rejected by the Commission shall be void and its use shall be unlawful.

* * * * * * *

SEC. 230. REFUND AUTHORITY.

In addition to any other provision of this Act under which the Commission may order refunds, the Commission may require by order the refund of such portion of any charge by any carrier or car-

riers as results from a violation of section 220 (a), (b), or (d) or 221 (c) or (d) or of any of the rules promulgated pursuant to such sections or pursuant to section 215, 218, or 219. Such refunds shall be ordered only to the extent that the Commission or a court finds that such violation resulted in unlawful charges and shall be made to such persons or classes of persons as the Commission determines reasonably represent the persons from whom amounts were improperly received by reason of such violation. No refunds shall be required under this section unless—

(1) the Commission issues an order advising the carrier of its potential refund liability and provides the carrier with an opportunity to file written comments as to why refunds should not be required; and

(2) such order is issued not later than 5 years after the date the charge was paid.

In the case of a continuing violation, a violation shall be considered to occur on each date that the violation is repeated.

TITLE III—PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

* * * * * * *

SEC. 302. DEVICES WHICH INTERFERE WITH RADIO RECEPTION.

(a) * * *

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(d)(1) Within 180 days after the date of enactment of this subsection, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of—

(A) receiving transmissions in the frequencies [allocated to the domestic cellular radio telecommunications service] *utilized to provide commercial mobile service (as defined in section 332(d)),*

(B) readily being altered by the user to receive transmissions in such frequencies, or

(C) being equipped with decoders that convert digital [cellular] *commercial mobile service* transmissions to analog voice audio.

* * * * * * *

SEC. 307. ALLOCATION OF FACILITIES; TERM OF LICENSES.

(a) * * *

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[(e)(1) Notwithstanding any license requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

[(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual li-

cense shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

[(3) For purposes of this subsection, the terms "radio control service" and "citizens band radio service" shall have the meanings given them by the Commission by rule.]

(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (B) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

(3) For purposes of this subsection, the terms "aircraft station" and "ship station" shall have the meanings given them by the Commission by rule.

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SEC. 309. ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS ATTACHED TO LICENSES.

(a) * * *

* * * * * * *

[(i) RANDOM SELECTION.—

[(1) GENERAL AUTHORITY.—If—

[(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

[(B) the Commission has determined that the use is not described in subsection (j)(2)(A);

then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

[(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purposes of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

[(A) adopt procedures for the submission of all or part of the evidence in written form;

[(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

[(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).

[(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of minority group.

[(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such times, and in accordance with such procedures, as the Commission may require.

[(C) For purposes of this paragraph:

[(i) The term "media of mass communication" includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

[(ii) The term "minority group" includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.

[(4)(A) The Commission shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

[(B) The Commission shall have authority to amend such rules from time to time to the extent necessary too carry out the provisions of this subsection. Any such amendment shall be made after notice and opportunity for hearing.

[(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.]

(j) USE OF COMPETITIVE BIDDING.—

[(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for filing for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority, subject to paragraph (10), to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

[(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

[(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return for which the licensee—

[(i) enables those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

[(ii) enables those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

[(B) a system of competitive bidding will promote the objectives described in paragraph (3).]

(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.

* * * * * * *

(8) TREATMENT OF REVENUES.—

(A) * * *

(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under subsection (i) shall be used by the Commission to implement this subsection. *Such offsetting collections are authorized to remain available until expended.*

(C) ESCROW OF DEPOSIT.—The Commission is authorized, based on the competitive bidding methodology selected, to provide for the deposit of moneys for bids in an interest-bearing account until such time as the Commission accepts a deposit from the high bidder. All interest earned on bid moneys received from the winning bidder shall be deposited into the general fund of the Treasury. All interest earned on bid moneys deposited from unsuccessful bidders, less any applicable fees and penalties, shall be paid to those bidders.

* * * * * * *

(11) TERMINATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, [1998.] *2002.*

* * * * * * *

SEC. 312. ADMINISTRATIVE SANCTIONS.

(a) The Commission may revoke any station license or construction permit—

(1) * * *

* * * * * * *

(6) for violation of section 1304, 1343, or 1464 of title 18 of the United States Code; [or]

(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy[.]*; or*

(8) for failure to comply with any requirement of this Act or the Commission's rules that imperils the safety of life.

* * * * * * *

PART II—RADIO EQUIPMENT AND RADIO OPERATORS ON BOARD SHIP

* * * * * * *

SEC. 362. INSPECTION.

(a) * * *

[(b) Every ship of the United States, subject to this part, shall have the equipment and apparatus prescribed therein, inspected at least once each year by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be certified to on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as may be necessary to insure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest would be served thereby, waive the annual inspection required under this section from the time of first arrival at a United States port from a foreign port, for the sole purpose of enabling the vessel to proceed coastwise to another port in the United States where an inspection can be held: *Provided,* That such waiver may not exceed a period of thirty days.]

(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein in-

spected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be certified to on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.

* * * * * * *

PART III—RADIO INSTALLATIONS ON VESSELS CARRYING PASSENGERS FOR HIRE

SEC. 385. INSPECTIONS.

The Commission *or an entity designated by the Commission* shall make such inspections as may be necessary to insure compliance with the requirements of this part.

PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING

[SUBPART A—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES

[SEC. 390. DECLARATION OF PURPOSE.

[The purpose of this subpart is to assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

[SEC. 391. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $42,000,000 for each of the fiscal years 1992, 1993, and 1994, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart for any fiscal year shall remain

available until expended for payment of grants for projects for which applications approved by the Secretary pursuant to this subpart have been submitted within such fiscal year. Sums appropriated under this subpart may be used by the Secretary to cover the cost of administering the provisions of this subpart.

[SEC. 392. GRANTS FOR CONSTRUCTION AND PLANNING.

[(a) For each project for the construction of public telecommunications facilities there shall be submitted to the Secretary an application for a grant containing such information with respect to such project as the Secretary may require, including the total cost of such project, the amount of the grant requested for such project, and a 5-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurances satisfactory to the Secretary that—

[(1) the applicant is (A) a public broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (E) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State;

[(2) the operation of such public telecommunication facilities will be under the control of the applicant;

[(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

[(4) such public telecommunications facilities will be used primarily for the provision of public telecommunications services and that the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services will not interfere with the provision of such public telecommunications services as required in this part;

[(5) the applicant has participated in comprehensive planning for such public telecommunications facilities in the area which the applicant proposes to serve, and such planning has included an evaluation of alternate technologies and coordination with State educational television and radio agencies, as appropriate; and

[(6) the applicant will make the most efficient use of the grant.

[(b) Upon approving any application under this section with respect to any project for the construction of public telecommunications facilities, the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project.

[(c) The Secretary may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances

satisfactory to the Secretary that the applicant meets the eligible requirements of subsection (a) to receive construction assistance.

[(d) Any studies conducted by or for any grant recipient under this section shall be provided to the Secretary, if such studies are conducted through the use of funds received under this section.

[(e) The Secretary shall establish such rules and regulations as may be necessary to carry out this subpart, including rules and regulations relating to the order of priority in approving applications for construction projects and relating to determining the amount of each grant for such projects.

[(f) In establishing criteria for grants pursuant to section 393 and in establishing procedures relating to the order of priority established in subsection (e) in approving applications for grants, the Secretary shall give special consideration to applications which would increase minority and women's ownership of, operation of, and participation in public telecommunications entities. The Secretary shall take affirmative steps to inform minorities and women of the availability of funds under this subpart, and the localities where new public telecommunications facilities are needed, and to provide such other assistance and information as may be appropriate.

[(g) If, within 10 years after completion of any project for construction of public telecommunications facilities with respect to which a grant has been made under this section—

[(1) the applicant or other owner of such facilities ceases to be an agency, institution, foundation, corporation, association, or other entity described in subsection (a)(1); or

[(2) such facilities cease to be used primarily for the provision of public telecommunications services (or the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services interferes with the provision of such public telecommunications services as required in this part);

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bore to the cost of construction of such facilities.

[(h) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the functions of the Secretary under this subpart, including a complete and itemized inventory of all public telecommunications facilities under the control of such recipient, and records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

[(i) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have

access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this subpart that are pertinent to assistance received under this subpart.

[SEC. 393. CRITERIA FOR APPROVAL AND EXPENDITURES BY SECRETARY OF COMMERCE.

[(a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with others, shall estblish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this subpart, and shall be made available to interested parties upon request.

[(b) The Secretary shall base determinations of whether to approve applications for grants under this subpart, and the amount of such grants, on criteria developed pursuant to subsection (a) and designed to achieve—

[(1) the provision of new telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

[(2) the expansion of the service areas of existing public telecommunications entities;

[(3) the development of public telecommunications facilities owned by, operated by, and available to minorities and women; and

[(4) the improvement of the capabilities of existing public broadcast stations to provide public telecommunications services, including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals.

[(c) Of the sums appropriated pursuant to section 391 for any fiscal year, a substantial amount shall be available for the expansion and development of noncommercial radio broadcast station facilities.

[SEC. 393A. LONG-RANGE PLANNING FOR FACILITIES.

[(a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with other parties, shall develop a long-range plan to accomplish the objectives set forth in section 390. Such plan shall include a detailed 5-year projection of the broadcast and nonbroadcast public telecommunications facilities required to meet such objectives, and the expenditures necessary to provide such facilities.

[(b) The plan required in subsection (a) shall be updated annually, and a summary of the activities of the Secretary in implementing the plan, shall be submitted concurrently to the President and the Congress not later than the 31st day of December of each year.

[SUBPART B—NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

[SEC. 394. ESTABLISHMENT OF NATIONAL ENDOWMENT.

[(a) It is the purpose of this section to enhance the education of children through the creation and production of television program-

ming specifically directed toward the development of fundamental intellectual skills.

[(b)(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

[(A) contract with the Corporation for the production of educational television programming for children; and

[(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

[(2) Contracts and grants under this section shall be made on the condition that the programming shall—

[(A) during the first two years after its production, be made available only to public television licensees and permittees and noncommercial television licensees and permittees; and

[(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements.

The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

[(c)(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

[(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

[(B) criteria to minimize the costs of—

[(i) selection of grantees,

[(ii) administering the contracts and grants, and

[(iii) the administrative costs of the programming production; and

[(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

[(2) Applications for grants under this section shall be submitted to the Secretary in such form and containing such information as the Secretary shall require by regulation.

[(d) Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an

amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

[(e)(1) The Secretary shall establish an Advisory Council on Children's Educational Television. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

[(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

[(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code.

[(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

[(f)(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

[(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

[(g) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

[(h) There are authorized to be appropriated $2,000,000 for fiscal year 1991, $4,000,000 for fiscal year 1992, $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year.

[(i) For purposes of this section—

[(1) the term "educational television programming for children" means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television

program which is directed to a general audience but which might also be viewed by a significant number of children; and

[(2) the term "person" means an individual, partnership, association, joint stock company, trust, corporation, or State or local governmental entity.

[SUBPART C—TELECOMMUNICATIONS DEMONSTRATIONS

[SEC. 395. ASSISTANCE FOR DEMONSTRATION PROJECTS.

[(a) It is the purpose of this subpart to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and public or social service information. The Secretary is authorized, upon receipt of an application in such form and containing such information as he may by regulation require, to make grants to, and enter into contracts with, public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations.

[(b) The Secretary may approve an application submitted under subsection (a) if he determines that—

[(1) the project for which application is made will demonstrate innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this subpart;

[(2) demonstrations and related activities assisted under this subpart will remain under the administration and control of the applicant;

[(3) the applicant has the managerial and technical capability to carry out the project for which the application is made; and

[(4) the facilities and equipment acquired or developed pursuant to the application will be used substantially for the transmission, distribution, and delivery of health, education, or public or social service information.

[(c) Upon approving any application under this subpart with respect to any project, the Secretary shall make a grant to or enter into a contract with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sums available therefor, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

[(d) Funds made available pursuant to this subpart shall not be available for the construction, remodeling, or repair of structures to house the facilities or equipment acquired or developed with such funds, except that such funds may be used for minor remodeling which is necessary for and incidental to the installation of such facilities or equipment.

[(e) For purposes of this section, the term "nonbroadcast telecommunications facilities" includes, but is not limited to, cable television systems, communications satellite systems and related terminal equipment, and other modes of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic or other means.

[(f) The funding of any demonstration pursuant to this subpart shall continue for not more than 3 years from the date of the original grant or contract.

[(g) The Secretary shall require that the recipient of a grant or contract under this subpart submit a summary and evaluation of the results of the demonstration at least annually for each year in which funds are received pursuant to this section.

[(h)(1) Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this subpart, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

[(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subpart.

[(i) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this subpart, including regulations relating to the order of priority in approving applications for projects under this subpart or to determining the amounts of grants for such projects.

[(j) The Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for close coordination with the Commission in the administration of the Secretary's functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall provide for close coordination with the Corporation in the administration of the Secretary's functions udner this subpart which are of interest to or affect the functions of the Corporation.

[(k) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1979, 1980, and 1981, to be used by the Secretary to carry out the provisions of this subpart. Sums appropriated under this subsection for any fiscal year shall remain available for payment of grants or contracts for projects for which applications approved under this subpart have been submitted within one year after the last day of such fiscal year.]

* * * * * * *

TITLE V—PENAL PROVISIONS—FORFEITURES

* * * * * * *

SEC. 503. FORFEITURES IN CASES OF REBATES AND OFFSETS.

(a) * * *

(b)(1) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—

(A) * * *

* * * * * * *

(C) violated any provision of section 317(c) or 508(a) of this Act; [or]

(D) violated any provision of section 1304, 1343, or 1464 of title 18, United States Code; *or*

(E) failed to comply with any requirement of this Act or the Commission's rules that imperils the safety of life;

shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this Act; except that this subsection shall not apply to any conduct which is subject to forfeiture under title II, part II or III of title III, or section 506 of this Act.

* * * * * * *

(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

(A) such person holds a broadcast station license issued under title III of this Act and if the violation charged occurred—

(i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or

(ii) prior to the date of commencement of the current term of such license,

whichever is earlier; [or]

(B) such person is a common carrier and the required notice of apparent liability is issued more than 5 years after the date the violation charged occurred; or

[(B)] *(C)* such person does not hold a broadcast station license issued under title III of this Act *and is not a common carrier* and if the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.

For purposes of this paragraph, "date of commencement of the current term of such license" means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in effect under section 307(c) pending decision on an application for renewal of the license.

* * * * * * *

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION ORGANIZATION ACT

TITLE I—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

* * * * * * *

PART B—TRANSFER OF AUCTIONABLE FREQUENCIES

SEC. 113. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) * * *

(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

(1) [IN GENERAL] *INITIAL REALLOCATION REPORT.*—In accordance with the provisions of this section, the Secretary shall recommend for reallocation *in the first report required by subsection (a)*, for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that in the aggregate span not less than 200 megahertz, that are located below 5 gigahertz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). Such bands of frequencies shall include bands of frequencies, located below 3 gigahertz, that span in the aggregate not less than 100 megahertz.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which a report of the Secretary under subsection (a) or (d)(1) recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the 1934 Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) *or (3)* of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimums required by paragraph (1) *or (3)* of this subsection;

* * * * * * *

(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).

* * * * * * *

(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Omnibus Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.

SEC. 114. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 6 months after receipt of a report by the Secretary under subsection [(a) or (d)(1)] *(a), (d)(1), of (f)* of section 113,

withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

* * * * * * *

SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) * * *

(b) ALLOCATION AND ASSIGNMENT OF REMAINING AVAILABLE FREQUENCIES.—With respect to the frequencies made available for reallocation pursuant to section 113(e)(3), the Commission shall, not later than 1 year after receipt of [the report required by section 113(a)] *the initial reallocation report required by section 113(a)*, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall—

(1) * * *

* * * * * * *

(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).

* * * * * * *

SECTION 6 OF THE FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1988

OLDER AMERICANS PROGRAM

SEC. 6. (a) During [fiscal years 1992 and 1993] *fiscal year 1996*, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq) to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

* * * * * * *

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

* * * * * * *

TITLE VI—ENERGY AND ENVIRONMENTAL PROGRAMS

* * * * * * *

Subtitle B—NRC User Fees and Annual Charges

SEC. 6101. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) * * *

* * * * * * *

(3) LAST ASSESSMENT OF ANNUAL CHARGES.—The last assessment of annual charges under subsection (c) shall be made not later than September 30, [1998] *2002*.

* * * * * * *

TITLE X—MISCELLANEOUS USER FEES AND OTHER PROVISIONS

* * * * * * *

ATOMIC ENERGY ACT OF 1954

ATOMIC ENERGY ACT OF 1954

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* * * * * * *

TITLE I—ATOMIC ENERGY

* * * * * * *

CHAPTER 2. DEFINITIONS

SEC. 11. DEFINITION.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

a. * * *

* * * * * * *

v. The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility [or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology], such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such

equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

* * * * * * *

CHAPTER 16. JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

* * * * * * *

SEC. 193. LICENSING OF URANIUM ENRICHMENT FACILITIES.

(a) * * *

* * * * * * *

(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.

TITLE II—UNITED STATES ENRICHMENT CORPORATION

CHAPTER 22—GENERAL PROVISIONS

SEC. 1201. DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * * * *

(4) The term "Corporation" means the United States Enrichment Corporation *and any successor corporation established through privatization of the Corporation*.

* * * * * * *

(10) The term "low-level radioactive waste" has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

(11) The term "mixed waste" has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

(12) The term "privatization" means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

(13) The term "privatization date" means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.

[(10)**]** *(14)* The term "releases" has the meaning given the term "release" in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

[(11)**]** *(15)* The term "remedial action" has the meaning given such term in section 101(24) of the Comprehensive Envi-

ronmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

[(12)] *(16)* The term "response actions" has the meaning given the term "response" in section 101(25) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

[(13)] *(17)* The term "Secretary" means the Secretary of Energy.

(18) The term "transition date" means July 1, 1993.

[(14)] *(19)* The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

(20) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(21) The term "private corporation" means the corporation established under section 1503.

(22) The term "Russian HEU agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(23) The term "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

[SEC. 1202. PURPOSES.

[The Corporation is created for the following purposes:

[(1) To operate as a business enterprise on a profitable and efficient basis.

[(2) To maximize the long-term value of the Corporation to the Treasury of the United States.

[(3) To lease Department uranium enrichment facilities, as needed.

[(4) To acquire uranium for uranium enrichment, low-enriched uranium for resale, and highly enriched uranium for conversion into low-enriched uranium, as needed.

[(5) To market and sell its enriched uranium and uranium enrichment and related services to—

[(A) the Department for governmental purposes; and

[(B) domestic and foreign persons, as provided in section 1303(6).

[(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

[(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

[(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

[(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

[(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

[(11) To take all other lawful actions in furtherance of these purposes.]

CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

[SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

[(a) IN GENERAL.—There is established a body corporate to be known as the United States Enrichment Corporation.

[(b) GOVERNMENT CORPORATION.—The Corporation shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

[(c) FEDERAL AGENCY.—The Corporation shall be an agency and instrumentality of the United States.

[SEC. 1302. CORPORATE OFFICES.

[The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

[SEC. 1303. POWERS OF THE CORPORATION.

[In order to accomplish its purposes, the Corporation—

[(1) shall, except as provided in this title or applicable Federal law, have all the powers of a private corporation incorporated under the District of Columbia Business Corporation Act;

[(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

[(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

[(4) shall enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium provided under section 1408);

[(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

[(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

[(A) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

[(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

[(C) persons otherwise authorized by law to enter into such transactions;

[(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

[(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

[(9) shall sell to the Department as provided in this title, without regard to section 57 e., the amounts of uranium enrichment and related services that the Department determines from time to time are required for it to—

[(A) carry out Presidential directions and authorizations under section 91; and

[(B) conduct other Department programs.

[SEC. 1304. BOARD OF DIRECTORS.

[(a) IN GENERAL.—The powers of the Corporation are vested in the Board of Directors.

[(b) APPOINTMENT.—The Board of Directors shall consist of 5 individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

[(c) QUALIFICATIONS.—Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

[(d) TERMS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board shall serve 5-year terms or until the election of a new Board of Directors under section 1704, whichever comes first.

[(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

[(A) 1 shall be appointed for a 1-year term;

[(B) 1 shall be appointed for a 2-year term;

[(C) 1 shall be appointed for a 3-year term; and

[(D) 1 shall be appointed for a 4-year term.

[(3) REAPPOINTMENT.—Members of the Board may be reappointed by the President, by and with the advice and consent of the Senate.

[(e) VACANCIES.—Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term.

[(f) MEETINGS AND QUORUM.—The Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. Three voting members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

[(g) POWERS.—The Board shall be responsible for general management of the Corporation and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated under the District of Columbia Business Corporation Act.

[(h) COMPENSATION.—Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

[(i) MEMBERSHIP OF SECRETARY OF TREASURY.—The President may appoint the Secretary of the Treasury or his designee to serve as a member of the Board or as a nonvoting, ex officio member of the Board.

[(j) CONFLICT OF INTEREST REQUIREMENTS.—No director, officer, or other management level employee of the Corporation may have a financial interest in any customer, contractor, or competitor of the Corporation or in any business that may be adversely affected by the success of the Corporation.]

SEC. 1305.[1] EMPLOYEES OF THE CORPORATION.

[(a) APPOINTMENT.—The Board shall appoint such officers and employees as are necessary for the transaction of its business.

[(b) COMPENSATION, DUTIES, AND REMOVAL.—The Board shall, without regard to section 5301 of title 5, United States Code, fix the compensation of all officers and employees of the Corporation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any officer or employee of the Corporation may be removed in the discretion of the Board.

[(c) APPLICABLE CRITERIA.—The Board shall ensure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees shall be appointed, promoted, and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

[(d) TREATMENT OF PERSONS EMPLOYED PRIOR TO TRANSITION DATE.—Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the transition date, whether provided by statute or by rules of the Department or the executive branch, shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Board.

---

[1] Section 1201(13) of the Atomic Energy Act of 1954, as added by this bill, defines the term "privatization date" as the date on which 100 percent of ownership of the Corporation has been transferred to private investors.

[(e) PROTECTION OF EXISTING EMPLOYEES.—

[(1) IN GENERAL.—It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

[(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at each individual facility until—

[(A) the earlier of the date on which a new bargaining agreement is signed; or

[(B) the end of the 2-year period beginning on the date of the enactment of this title.

[(3) APPLICABILITY OF NLRA.—Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).]

(a) IN GENERAL.—

(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation, as the case may be.

(3) Any employer (including the private corporation or any contractor of the private corporation) at a gaseous diffusion plant shall abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the expiration of the agreement.

(4) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat such plant as a Department of Energy defense nuclear facility and any person employed by an operating contractor on the privatization date at either plant as a Department of Energy employee for purposes of sections 3161 through 3163 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274j).

(5) The Department of Energy and the private corporation shall continue to fund postretirement health benefits for persons employed by an operating contractor at either of the gaseous diffusion plants at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date, consistent with subparagraphs (A) through (C), except that the Department of Energy, the private corporations and the operat-

ing contractor shall have the right to implement cost-saving measures, including (but not limited to) preferred provider organizations, managed care programs, mandatory second opinions before surgery or other medical procedures, and mandatory use of generic drugs, that do not materially diminish the overall quality of the medical care provided—

(A) persons eligible for this coverage shall be limited to persons who retired from active employment at one of the gaseous diffusion plants as of the privatization date, as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants and persons who, as of the privatization date, are employed by the Corporation's operating contractor and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants;

(B) for persons who retired from employment with an operating contractor prior to July 1, 1993, the Department of Energy shall fund the entire cost of postretirement health benefits; and

(C) for persons who retire from employment with an operating contractor after July 1, 1993, the Department of Energy and the private corporation shall fund the cost of postretirement health benefits in proportion to the retired persons' years and months of service at a gaseous diffusion plant under their respective management.

[(4)**]** *(b)* BENEFITS OF **[**TRANSFEREES AND DETAILEES.—At the request of the Board and subject to the approval of the Secretary, an employee of the Department may be transferred or detailed as provided for in section 1315, to the Corporation without any loss in accrued benefits or standing within the Civil Service System.**]** *TRANSFEREES*.—For those employees who accept transfer to the Corporation *from other Federal employment*, it shall be their option as to whether to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. For those employees electing to remain with one of the Federal retirement systems, the Corporation shall withhold pay and make such payments as are required under the Federal retirement system. **[**For those Department employees detailed, the Department shall offer those employees a position of like grade, compensation, and proximity to their official duty station after their services are no longer required by the Corporation.**]**

[SEC. 1306. AUDITS.

[(a) INDEPENDENT AUDITS.—

[(1) IN GENERAL.—The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with au-

diting standards issued by the Comptroller General. Such auditing standards shall be consistent with the private sector's generally accepted auditing standards.

[(2) REVIEW BY GAO.—The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

[(b) GAO AUDITS.—

[(1) IN GENERAL.—The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

[(2) REIMBURSEMENT BY CORPORATION.—The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

[(c) AVAILABILITY OF BOOKS AND RECORDS.—All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General, subject to section 1314.

[(d) TREATMENT OF GAO AUDITS.—Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

[SEC. 1307. ANNUAL REPORTS.

[(a) IN GENERAL.—The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

[(1) a general description of the Corporation's operations;

[(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

[(3) copies of audit reports prepared under section 1305

[(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

[(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

[(b) DEADLINE.—The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

[SEC. 1308. ACCOUNTS.

[(a) ESTABLISHMENT OF UNITED STATES ENRICHMENT CORPORATION FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the "United States Enrichment Corporation Fund", which shall be available to the Corporation, without need for further appropriation and without fiscal year limitation, for carrying out its purposes, functions, and powers, and

which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

[(b) TRANSFER OF UNEXPENDED BALANCES.—On the transfer date, the Secretary shall, without need of further appropriation, transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

[SEC. 1309. OBLIGATIONS.

[(a) ISSUANCE.—

[(1) IN GENERAL.—The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as "bonds"), except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. Borrowing under this paragraph during any fiscal year ending before October 1, 1996, shall be subject to approval in appropriation Acts.

[(2) USE OF REVENUES.—The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds that may be similarly pledged and used.

[(3) AGREEMENTS WITH HOLDERS AND TRUSTEES.—The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

[(A) the establishment of reserve and other funds;

[(B) stipulations concerning the subsequent issuance of bonds; and

[(C) other matters not inconsistent with this title;

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

[(b) NOT OBLIGATIONS OF UNITED STATES.—Bonds issued by the Corporation under this section shall not be obligations of, or guaranteed as to principal or interest by, the United States, and the bonds shall so plainly state.

[(c) TERMS AND CONDITIONS.—

[(1) NEGOTIABLE; MATURITY.—Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 50 years after their date of issuance.

[(2) ROLE OF SECRETARY OF THE TREASURY.—

[(A) RIGHT OF DISAPPROVAL.—The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 5 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

[(i) Their forms and denominations.

[(ii) The times, amounts, and prices at which they are sold.

[(iii) Their rates of interest.

[(iv) The terms at which they may be redeemed by the Corporation before maturity.

[(v) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

[(vi) Any other terms and conditions.

[(B) INAPPLICABILITY OF RIGHT TO PRESCRIBE TERMS.—Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

[(d) INAPPLICABILITY OF SECURITIES REQUIREMENTS.—The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

[(e) INAPPLICABILITY OF FFB.—The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

[SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

[(a) EXEMPTION FROM TAXATION.—In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

[(b) PAYMENTS IN LIEU OF TAXES.—Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

[(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

[(2) The payment made to any taxing authority for any period shall not be less than the payments that would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 and that would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the transition date.

[(c) TIME OF PAYMENTS.—Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

[(d) DETERMINATION OF AMOUNT DUE.—The determination by the Corporation of the amounts due under this section shall be final and conclusive.

[SEC. 1311. COOPERATION WITH OTHER AGENCIES.

[The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

[SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

[(a) ANTITRUST LAWS.—The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

[(1) The Sherman Act (15 U.S.C. 1–7).

[(2) The Clayton Act (15 U.S.C. 12–27).

[(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

[(b) ENVIRONMENTAL LAWS.—The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person who is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term "person" means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

[(c) OSHA REQUIREMENTS.—Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

[(d) LABOR STANDARDS.—The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950

(15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

[(e) ENERGY REORGANIZATION ACT REQUIREMENTS.—The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5850) to the same extent as an employer subject to such section, and, with respect to the operation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the Corporation.

[(f) EXEMPTION FROM FEDERAL PROPERTY REQUIREMENTS.—The Corporation shall not be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.).

[SEC. 1313. SECURITY.

[Any references to the term "Commission" or to the Department in sections 161k., 221a., and 230 shall be considered to include the Corporation.

[SEC. 1314. CONTROL OF INFORMATION.

[(a) IN GENERAL.—Except as provided in subsection (b), the Corporation may protect trade secrets and commercial or financial information to the same extent as a privately owned corporation.

[(b) OTHER APPLICABLE LAWS.—Section 552(d) of title 5, United States Code, shall apply to the Corporation, and such information shall be subject to the applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

[SEC. 1315. TRANSITION.

[(a) TRANSITION MANAGER.—Within 30 days after the date of the enactment of this title, the President shall appoint a Transition Manager, who shall serve at the pleasure of the President until a quorum of the Board has been appointed and confirmed in accordance with section 1304.

[(b) POWERS.—

[(1) IN GENERAL.—Until a quorum of the Board has qualified, the Transition Manager shall exercise the powers and duties of the Board and shall be responsible for taking all actions needed to effect the transfer of the uranium enrichment enterprise from the Secretary to the Corporation on the transition date.

[(2) CONTINUATION UNTIL BOARD HAS QUORUM.—In the event that a quorum of the Board has not qualified by the transition date, the Transition Manager shall continue to exercise the powers and duties of the Board until a quorum has qualified.

[(c) RATIFICATION OF TRANSITION MANAGER'S ACTIONS.—All actions taken by the Transition Manager before the qualification of a quorum of the Board shall be subject to ratification by the Board.

[(d) RESPONSIBILITIES OF SECRETARY.—Before the transition date, the Secretary shall—

[(1) continue to be responsible for the management and operation of the uranium enrichment plants

[(2) provide funds, to the extent provided in appropriations Acts, to the Transition Manager to pay salaries and expenses;

[(3) delegate Department employees to assist the Transition Manager in meeting his responsibilities under this section; and

[(4) assist and cooperate with the Transition Manager in preparing for the transfer of the uranium enrichment enterprise to the Corporation on the transition date.

[(e) TRANSITION DATE.—The transition date shall be July 1, 1993.

[(f) DETAIL OF PERSONNEL.—For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of the enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

[SEC. 1316. WORKING CAPITAL ACCOUNT.

[There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses, or investments, related to carrying out its purposes.]

CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

(a) [EXCLUSIVE MARKETING AGENT.—The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services.] *MARKETING AUTHORITY.*—The Department may not market enriched uranium (including low-enriched uranium derived from highly enriched uranium), or uranium enrichment and related services, after the transition date.

(b) TRANSFER OF CONTRACTS.—

(1) * * *

(2) EXCEPTIONS.—

(A) TVA SETTLEMENT.—The rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

(B) NONTRANSFERABLE POWER CONTRACTS.—If the Secretary determines that a power purchase contract executed by the Department prior to the transition date cannot be transferred under its terms, the Secretary may continue to receive power under the contract and resell such power to the Corporation at cost. *The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract.*

(C) NONPOWER APPLICATIONS.—Contracts for enriched uranium and uranium services in existence as of the date of the enactment of this title for research and development or other nonpower applications shall remain with the Department. At the request of the Department, the Corporation, in consultation with the Department, may enter into such contracts it determines to be appropriate.

(3) EFFECT OF TRANSFER.—

(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.

[SEC. 1402. PRICING.

[(a) SERVICES PROVIDED TO COMMERCIAL CUSTOMERS.—The Corporation shall establish prices for its products, materials, and services provided to customers other than the Department on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

[(b) SERVICES PROVIDED TO DOE.—The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will allow it to recover its costs, on a yearly basis, for providing products, materials, and services, and provide for a reasonable profit.]

SEC. 1402. PRICING.

The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

SEC. 1403. LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.

(a) * * *

* * * * * * *

(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursu-

ant to subsection (a) the Department, at the request of the Corporation, shall—

(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.

[SEC. 1404. CAPITAL STRUCTURE OF CORPORATION.

[(a) CAPITAL STOCK.—

[(1) ISSUANCE TO SECRETARY OF THE TREASURY.—The Corporation shall issue capital stock representing an equity investment equal to the greater of—

[(A) $3,000,000,000; or

[(B) the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1991, modified to reflect continued depreciation and other usual changes that occur up to the transfer date.

The Secretary of the Treasury shall hold such stock for the United States, except that all rights and duties pertaining to

management of the Corporation shall remain vested in the Board.

[(2) RESTRICTION ON TRANSFERS OF STOCK BY UNITED STATES.—The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States, except to carry out the privatization of the Corporation under section 1502.

[(3) ANNUAL ASSESSMENT.—The Secretary of the Treasury shall annually assess the value of the stock held by the Secretary under paragraph (1) and submit to the Congress a report setting forth such value. The annual assessment of the Secretary shall be subject to review by an independent auditor.

[(b) PAYMENT OF DIVIDENDS.—The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as is provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. Until privatization occurs under section 1502, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established in section 1316.

[(c) PROHIBITION ON ADDITIONAL FEDERAL ASSISTANCE.—Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

[(d) SOLE RECOVERY OF UNRECOVERED COSTS.—Receipt by the United States of the proceeds from the sale of stock issued by the Corporation under subsection (a)(1), and the dividends paid under subsection (b), shall constitute the sole recovery by the United States of previously unrecovered costs (including depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants) that have been incurred by the United States for uranium enrichment activities prior to the transition date.

[SEC. 1405. PATENTS AND INVENTIONS.

[The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. subject to section 153 c., d., e., f., g., and h.]

SEC. 1406. LIABILITIES.

(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION *AND PRIVATIZATION*.—Except as otherwise provided in this title, all liabilities attributable to operation of the uranium enrichment enterprise before the transition date shall remain direct liabilities of the Department. *As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.*

(b) JUDGMENTS BASED ON OPERATIONS BEFORE TRANSITION *AND PRIVATIZATION*.—Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium en-

richment enterprise before the transition date shall be considered a judgment against and shall be payable solely by the Department. *As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.*

(c) REPRESENTATION.—With regard to any claim seeking to impose liability under subsection (a) or (b), the United States shall be represented by the Department of Justice.

(d) JUDGMENTS BASED ON OPERATIONS AFTER TRANSITION *AND PRIVATIZATION*.—Any judgment entered against the Corporation arising from operations of the Corporation on or after [the transition date] *the privatization date (or, in the event the privatization date does not occur, the transition date)* shall be payable solely by the Corporation from its own funds. The Corporation shall not be considered a Federal agency for purposes of chapter 171 of title 28, United States Code.

SEC. 1408. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural or enriched uranium in any form) to any person except as provided in this section.

(b) RUSSIAN HEU.—

(1) TRANSFERS.—Prior to December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall transfer to the Secretary upon delivery of such material to the Secretary. Uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall be deemed to be of Russian origin.

(2) CONTRACTS.—Within 7 years of the date of enactment of the USEC Privatization Act, the Secretary shall enter into contracts to sell the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for use outside the United States; and

(C) for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3 million pounds U3O8 equivalent per year.

(3) URANIUM HEXAFLUORIDE.—With respect to all low-enriched uranium that is delivered to the United States Executive Agent under the Russian HEU Agreement after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, deliver to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the

natural uranium component of such low-enriched uranium simultaneously with the delivery of such low-enriched uranium. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity consistent with the limitations on delivery to end users set forth in this subsection. Nothing in this subsection shall restrict the sale of the conversion component of such uranium hexafluoride.

(4) INDEPENDENT PARTY.—In the event that the Russian Executive Agent does not request delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent party through a competitive selection process to auction an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium. Such independent party shall sell such uranium hexafluoride to any person or entity consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed to be of Russian origin.

(5) CONSUMPTION.—Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States prior to January 1, 1998 and thereafter only in accordance with the following schedule:

Year	***Annual Maximum Deliveries to End Users (millions lbs. U_3O_8 equivalent)***
1998–	*2 million lbs. U_3O_8 equivalent*
1999–	*4 million lbs. U_3O_8 equivalent*
2000–	*6 million lbs. U_3O_8 equivalent*
2001–	*8 million lbs. U_3O_8 equivalent*
2002–	*10 million lbs. U_3O_8 equivalent*
2003–	*12 million lbs. U_3O_8 equivalent*
2004–	*14 million lbs. U_3O_8 equivalent*
2005 and each year thereafter	*16 million lbs. U_3O_8 equivalent*

(6) SALE.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be

sold at any time as Russian-origin natural uranium in a sale with an equal portion of U.S.-origin natural uranium pursuant to the Suspension Agreement and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) SALE FOR USE IN THE UNITED STATES.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(c) TRANSFERS TO THE CORPORATION.—(1) Before the privatization date, the Secretary may transfer to the Corporation without charge the low enriched uranium from up to 50 metric tons of highly enriched uranium and up to 7,000 metric tons of natural uranium, subject to the restrictions in subsection (b)(2).

(2) The Corporation (or its successor) may not deliver for commercial end use—

(A) any of the natural uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the natural uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4 million pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units of low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsection (b), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b) and (d), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary to national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse impact on the domestic uranium mining and enrichment industries, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (c), the Secretary may transfer or sell low-enriched uranium—

(1) to a federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any state or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

SEC. [1408.] *1409.* PURCHASE OF HIGHLY ENRICHED URANIUM FROM FORMER SOVIET UNION.

(a) IN GENERAL.—The Corporation is authorized to negotiate the purchase of all highly enriched uranium made available by any State of the former Soviet Union under a government-to-government agreement or shall assume the obligations of the Department under any contractual agreement that has been reached with any such State or any private entity before the transition date. The Corporation may only purchase this material so long as the quality of the material can be made suitable for use in commercial reactors.

(b) ASSESSMENT OF POTENTIAL USE.—The Corporation shall prepare an assessment of the potential use of highly enriched uranium in the business operations of the Corporation.

(c) PLAN FOR BLENDING AND CONVERSION.—In the event that the agreement under subsection (a) provides for the Corporation to provide for the blending and conversion the assessment shall include a plan for such blending and conversion. The plan shall determine the least-cost approach to providing blending and conversion services, compatible with environmental, safety, security, and nonproliferation requirements. The plan shall include a competitive process that the Corporation shall use for selecting a provider of such services, including the public solicitation of proposals from the private sector to allow a determination of the least-cost approach.

(d) MINIMIZATION OF IMPACT ON DOMESTIC INDUSTRIES.—The Corporation shall seek to minimize the impact on domestic industries (including uranium mining) of the sale of low-enriched uranium derived from highly enriched uranium.

CHAPTER 25—PRIVATIZATION OF THE CORPORATION

* * * * * * *

SEC. 1502. PRIVATIZATION.

(a) * * *

* * * * * * *

(d) PERIOD FOR CONGRESSIONAL REVIEW.—The Corporation may not implement the privatization plan [less than 60 days after notification of the Congress] *less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c).*

SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

(B) To undertake any and all activities as provided in its corporate charter.

(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

(iii) persons otherwise authorized by law to enter into such transactions;

(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

(A) all of the Corporation's assets and obligations, including all of the Corporation's rights, duties, and obligations accruing subsequent to the privatization date under contracts, agreements, and leases entered into by the Corporation before the privatization date, including all uranium enrichment contracts and power purchase contracts;

(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B);

(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403; and

(E) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or chhracteristics, made or received by the Corporation.

(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if

such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

(c) LEGAL STATUS OF PRIVATE CORPORATION.—

(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.

SEC. 1504. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

(b) APPLICATION.—Subsection (a) shall not apply—

(1) to any employee stock ownership plan of the Corporation,

(2) to underwriting syndicates holding shares for resale, or

(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

(c) ACQUISITIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

(1) in the public offering of securities of the Corporation in the implementation of the privatization,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.

SEC. 1505. EXEMPTION FROM LIABILITY.

(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.

(c) SECURITIES LAWS APPLICABLE.—Any offering or sale of securities by the Corporation established pursuant to section 1503(a)(1) shall be subject to the Securities Act of 1933, the Securities Exchange Act of 1934 and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.

SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such act, notwithstanding section 257(e) of such act.

CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

[SEC. 1601. ASSESSMENT BY UNITED STATES ENRICHMENT CORPORATION.

[(a) IN GENERAL.—The Corporation shall prepare an assessment of the economic viability of proceeding with the commercialization of AVLIS and alternative technologies for uranium enrichment in accordance with this chapter. The assessment shall include—

[(1) an evaluation of market conditions together with a marketing strategy;

[(2) an analysis of the economic viability of competing enrichment technologies;

[(3) an identification of predeployment and capital requirements for the commercialization of AVLIS and alternative technologies for uranium enrichment;

[(4) an estimate of potential earnings from the licensing of AVLIS and alternative technologies for uranium enrichment to a private government sponsored corporation;

[(5) an analysis of outstanding and potential patent and related claims with respect to AVLIS and alternative technologies for uranium enrichment, and a plan for resolving such claims; and

[(6) a contingency plan for providing enriched uranium and related services in the event that deployment of AVLIS and alternative technologies for uranium enrichment is determined not to be economically viable.

[(b) DETERMINATION BY CORPORATION TO PROCEED WITH COMMERCIALIZATION OF AVLIS OR ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.—The succeeding sections of this chapter shall apply only to the extent the Corporation determines in its business judgment, on the basis of the assessment prepared under subsection (a), to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment.]

* * * * * * *

[SEC. 1603. PREDEPLOYMENT ACTIVITIES BY UNITED STATES ENRICHMENT CORPORATION.

[The Corporation may begin activities necessary to prepare AVLIS or alternative technologies for uranium enrichment for commercialization including—

[(1) completion of preapplication activities with the Nuclear Regulatory Commission;

[(2) preparation of a transition plan to move AVLIS or alternative technologies for uranium enrichment from the laboratory to the marketplace;

[(3) confirmation of technical performance;

[(4) validation of economic projections;

[(5) completion of feasibility and risk studies;

[(6) initiation of preliminary plant design and engineering; and

[(7) site selection, site characterization, and environmental documentation activities on the basis of site evaluations and recommendations prepared for the Department by the Argonne National Laboratory.

[SEC. 1604. UNITED STATES ENRICHMENT CORPORATION SPONSORSHIP OF PRIVATE FOR-PROFIT CORPORATION TO CONSTRUCT AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—If the Corporation determines to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment under this chapter, the Corporation may provide for the establishment of a private for-profit corporation, which shall have as its initial purpose the construction of a uranium enrichment facility using AVLIS technology or alternative technologies for uranium enrichment.

[(2) PROCESS OF ORGANIZATION.—For purposes of the establishment of the private corporation under paragraph (1), the Corporation shall appoint not less than 3 persons to be incorporators. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial board of directors until the members of the 1st regular board of directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the private corporation, including the filing of articles of incorporation in such jurisdiction as the incorporators determine to be appropriate. The incorporators shall also develop a plan for the issuance by the private corporation of voting common stock to the public, which plan shall be subject to the approval of the Secretary of the Treasury.

[(b) LEGAL STATUS OF PRIVATE CORPORATION.—

[(1) NOT FEDERAL AGENCY.—The private corporation established under subsection (a) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government controlled corporation.

[(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the private corporation established under subsection (a) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

[(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the private corporation established under subsection (a).

[(c) TRANSACTIONS BETWEEN UNITED STATES ENRICHMENT CORPORATION AND PRIVATE CORPORATION.—

[(1) GRANTS FROM USEC.—The Corporation may make grants to the private corporation established under subsection (a) from amounts available in the AVLIS Commercialization Fund. Such grants shall be used by the private corporation to carry out any remaining predeployment activity assigned to the private corporation by the Corporation. Such grants may not be used for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than such assigned predeployment activities). The aggregate amount of such grants shall not exceed $364,000,000.

[(2) LICENSING AGREEMENT.—The Corporation shall license to the private corporation established under subsection (a) the rights, titles, and interests provided to the Corporation under section 1602. The licensing agreement shall require the private corporation to make periodic payments to the Corporation in an amount that is not less than the aggregate amounts paid by the Corporation during the period involved under subsections (a) and (c) of section 1602.

[(3) PURCHASE AGREEMENT.—The Corporation may enter into a commitment to purchase all enriched uranium produced at an AVLIS, or alternative technologies for uranium enrichment, facility of the private corporation established under subsection (a) at a price negotiated by the 2 corporations that—

[(A) provides the private corporation with a reasonable return on its investment; and

[(B) is less costly than enriched uranium available from other sources.

[(4) ADDITIONAL ASSISTANCE.—The Corporation may provide to the private corporation established under subsection (a), on a reimbursable basis, such additional personnel, services, and equipment as the 2 corporations may determine to be appropriate.

[SEC. 1605. AVLIS COMMERCIALIZATION FUND WITHIN UNITED STATES ENRICHMENT CORPORATION.

[(a) ESTABLISHMENT.—The Corporation may establish within the Corporation an AVLIS Commercialization Fund, which shall consist of not more than $364,000,000 paid into the Fund by the Corporation from amounts provided in appropriation Acts for such purposes and from the retained earnings of the Corporation.

[(b) EXPENDITURES FROM FUND.—Amounts in the AVLIS Commercialization Fund shall be available for—

[(1) expenses of the Corporation in preparing the assessment under section 1601;

[(2) expenses of predeployment activities under section 1603; and

[(3) grants to the private corporation under section 1604.

[(c) LIMITATIONS.—

[(1) EXCLUSIVE SOURCE OF FUNDS.—The Corporation may not incur any obligation, or expend any amount, with respect to AVLIS or alternative technologies for uranium enrichment, except from amounts available in the AVLIS Commercialization Fund.

[(2) UNAVAILABLE FOR CONSTRUCTION COSTS.—No amount may be used from the AVLIS Commercialization Fund for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than activities specified in subsection (b)).

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $364,000,000 from the Uranium Enrichment Special Fund for purposes of this section.

[(e) COST REPORT.—On the basis of the assessment under section 1601(a)(3), the Corporation shall submit to the Congress a report on the capital requirements for commercialization of AVLIS.

[SEC. 1606. DEPARTMENT RESEARCH AND DEVELOPMENT ASSISTANCE.

[If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS and alternative technologies for uranium enrichment.

[SEC. 1607. SITE SELECTION.

[This chapter shall not prejudice consideration of the site of an existing uranium enrichment facility as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS or alternative technologies for uranium enrichment. Selection of a site for the AVLIS, or alternative technologies for uranium enrichment, facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing uranium enrichment facilities.]

CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

SEC. 1701. GASEOUS DIFFUSION FACILITIES.

(a) * * *

* * * * * * *

(c) CERTIFICATION PROCESS.—

(1) * * *

(2) [ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1).] *PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.* The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

* * * * * * *

SEC. 1702. LICENSING OF OTHER TECHNOLOGIES.

(a) IN GENERAL.—Corporation facilities using alternative technologies for uranium enrichment, [other than] *including* AVLIS, shall be licensed under sections 53 and 63.

* * * * * * *

SECTION 1018 OF THE ENERGY POLICY ACT OF 1992

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''Corporation'' means [the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act.] *the corpora-*

tion referred to in section 1201(4) of the Atomic Energy Act of 1954.

* * * * * * *

SECTION 9101 OF TITLE 31, UNITED STATES CODE

§ 9101. Definitions

In this chapter—

(1) * * *

* * * * * * *

(3) "wholly owned Government corporation" means—

(A) * * *

* * * * * * *

[(N) the Uranium Enrichment Corporation.]

* * * * * * *

SECTION 1018 OF THE ENERGY POLICY ACT OF 1992

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Corporation" means [the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act.] *the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.*

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TITLE 31, UNITED STATES CODE

SUBTITLE I—GENERAL

* * * * * * *

CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

* * * * * * *

§ 901. Establishment of agency Chief Financial Officers

(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

(b)(1) The agencies referred to in subsection (a)(1) are the following:

(A) The Department of Agriculture.

* * * * * * *

(Q) The United States Trade Administration.

* * * * * * *

SUBTITLE VI—MISCELLANEOUS

* * * * * * *

CHAPTER 91—GOVERNMENT CORPORATIONS

§ 9101. Definitions

In this chapter—

(1) "Government corporation" means a mixed-ownership Government corporation and a wholly owned Government corporation.

* * * * * * *

(3) "wholly owned Government corporation" means—

(A) the Commodity Credit Corporation.

* * * * * * *

[(N) the Uranium Enrichment Corporation.]

(O) the Patent and Trademark Office.

* * * * * * *

WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

* * * * * * *

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) * * *

* * * * * * *

[(18) TEST PHASE.—The term "test phase" means the period of time, during which test phase activities are conducted, beginning with the initial receipt of transuranic waste at WIPP and ending when the earliest of the following events occurs:

[(A) The requirements described in section 7(b) are met.

[(B) The Administrator determines under section 8(d)(1)(B) that the WIPP facility will not comply with the disposal regulations.

[(C) The time period described in paragraphs (2) and (3) of section 8(d) expires.

[(D) The Secretary is required by section 9(b)(2) to implement the retrieval plan.

[(19) TEST PHASE ACTIVITIES.—The term "test phase activities" means the testing and experimentation activities to determine the suitability of WIPP as a repository for the permanent isolation of transuranic waste.]

* * * * * * *

[SEC. 5. TEST PHASE AND RETRIEVAL PLANS.

[(a) IN GENERAL.—Not later than 7 months after the date of the enactment of this Act, the Secretary shall prepare, and submit to the Administrator for review, a test phase plan and a retrieval plan in accordance with this section. The Secretary shall give notice in

the Federal Register of submission of such plans and provide an opportunity for public access to such plans.

[(b) TEST PHASE PLAN.—The test phase plan and any modification of the plan, as appropriate, shall—

[(1) set forth the test phase activities to be conducted at WIPP;

[(2) specify the quantities and types of transuranic waste required for such activities;

[(3) provide a detailed description of how the test phase activities will provide information directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

[(4) include justification for all such activities.

[(c) RETRIEVAL PLAN.—The retrieval plan and any modification of the plan, as appropriate, shall set forth a detailed plan for the removal of transuranic waste emplaced at WIPP during the test phase, if such removal is required under any provision of this Act.

[(d) APPROVAL BY ADMINISTRATOR.—

[(1) IN GENERAL.—The Administrator shall determine, in a single rulemaking procedure, whether to approve, in whole or in part, or disapprove the test phase plan and whether to approve or disapprove the retrieval plan. The Administrator shall, in accordance with paragraph (3), publish in the Federal Register a final rule setting forth the approval or disapproval in accordance with this subsection not later than 10 months after the date of the enactment of this Act.

[(2) STANDARDS FOR APPROVAL.—

[(A) TEST PHASE PLAN.—The Administrator shall approve the test phase plan, or any modification to the plan, in whole or in part, if the Administrator determines that the experiments will provide data that are directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

[(B) RETRIEVAL PLAN.—The Administrator shall approve the retrieval plan, or any modification to the plan, if the Administrator determines that it will provide for satisfactory retrieval of all transuranic waste emplaced during the test phase from WIPP should retrieval of such waste be required.

[(3) RULEMAKING PROCEDURE.—The Administrator shall conduct the rulemaking required in paragraph (1) under section 553 of title 5, United States Code, except that sections 556 and 557 of such title shall not apply.

[(4) CONSEQUENCES OF APPROVAL.—If the Administrator approves the test phase plan, in whole or in part, and the retrieval plan under this subsection, the Secretary may immediately proceed with test phase activities to the extent they have been approved in the rule described in paragraph (3) and to the extent the requirements of section 6(b) have been met.

[(e) RECONSIDERATION OF DISAPPROVED PLANS.—If any plan, or portion of a plan, is not approved under subsection (d), the Secretary may submit a revised plan, or portion, to the Administrator.

Such revised plan, or portion, shall be considered in accordance with the procedures applicable under such subsection, except that final action shall be completed within 3 months of submission to the Administrator.

[(f) MODIFICATIONS TO TEST PHASE PLAN OR RETRIEVAL PLAN.—The Secretary may submit modifications to the test phase plan or retrieval plan. Such modifications shall be considered in accordance with the procedures applicable under subsection (d), except that final action shall be completed within 3 months of submission to the Administrator.]

SEC. 6. TEST PHASE ACTIVITIES.

[(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to subsections (b) and (c), to conduct test phase activities in accordance with the test phase plan.

[(b) REQUIREMENTS FOR COMMENCEMENT OF TEST PHASE ACTIVITIES.—The Secretary may not transport any transuranic waste to WIPP to conduct test phase activities under subsection (a) unless the following requirements are met:

[(1) FINAL DISPOSAL REGULATIONS ISSUED.—The final disposal regulations are issued and published in the Federal Register under section 8(b).

[(2) TERMS OF NO-MIGRATION DETERMINATION COMPLIED WITH.—The Administrator has determined that the Secretary has complied with the terms and conditions of the No-Migration Determination. The determination of the Administrator under this paragraph shall not be subject to rulemaking or judicial review.

[(3) TEST PHASE AND RETRIEVAL PLANS APPROVED.—The Secretary has issued, and the Administrator has approved, the test phase plan and the retrieval plan under section 5.

[(4) EMERGENCY RESPONSE TRAINING.—

[(A) REVIEW.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has reviewed the emergency response training programs of the Department of Energy that apply to WIPP.

[(B) CERTIFICATION.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has certified that the Department of Labor has reviewed emergency response training programs of the Department of Energy that apply to WIPP and has concurred that such programs are in compliance with part 1910.120 of title 29, Code of Federal Regulations. Such certification shall not be subject to rulemaking or judicial review.

[(5) CERTIFICATION OF SAFETY.—The Secretary has certified, through the issuance of safety analysis documents, that the safety of test phase activities to be completed at WIPP can be ensured through procedures that would not compromise the type, quantity, or quality of data collected from such test phase activities. Such certification shall not be subject to rulemaking or judicial review.

[(6) STABILITY OF ROOMS USED FOR TESTING.—The Secretary of Energy shall issue a plan to ensure that the mined rooms in the underground repository at WIPP in which transuranic waste may be emplaced will remain sufficiently stable and safe

to permit uninterrupted testing for the duration of such activities. The Secretary of Labor, acting through the Mine Safety and Health Administration, shall review such plan and concur that the plan ensures that the mined rooms in the underground repository at WIPP in which transuranic waste may be emplaced will remain sufficiently stable and safe to permit uninterrupted testing for the duration of such activities. Such issuance and concurrence shall not be subject to rulemaking or judicial review.]

[(c)] *(a)* [LIMITATIONS.—Test phase activities conducted under subsection (a) shall be subject to the following limitations:] *STUDY.—The following study shall be conducted:*

[(1) QUANTITY OF WASTE THAT MAY BE TRANSPORTED.—During the test phase, the Secretary may transport to WIPP—

[(A) only such quantities of transuranic waste as the Administrator has approved for test phase activities under section 5; and

[(B) in no event more than ½ of 1 percent of the total capacity of WIPP as described in section 7(a)(3).

[(2) REMOTE-HANDLED WASTE.—

[(A) TRANSPORTATION AND EMPLACEMENT.—The Secretary may not transport to or emplace remote-handled transuranic waste at WIPP during the test phase.

[(B) STUDY.—]

[(i)] *(1)* IN GENERAL.—Within 3 years after the date of the enactment of this Act, the Secretary shall complete a study on remote-handled transuranic waste in consultation with affected States, the Administrator, and after the solicitation of views of other interested parties.

[(ii)] *(2)* REQUIREMENTS OF STUDY.—Such study shall include an analysis of the impact of remote-handled transuranic waste on the performance assessment of WIPP and a comparison of remote-handled transuranic waste with contact-handled transuranic waste on such issues as gas generation, flammability, explosiveness, solubility, and brine and geochemical interactions.

[(iii)] *(3)* PUBLICATION.—The Secretary shall publish the findings of such study in the Federal Register.

[(d)] *(b)* PERFORMANCE ASSESSMENT REPORT.—

(1) IN GENERAL.—The Secretary shall publish, during the test phase, a biennial performance assessment report, consisting of a documented analysis of the long-term performance of WIPP. Each such report shall be provided to the State, the Administrator, the National Academy of Sciences, and the EEG for their review and comment.

(2) RESPONSES BY SECRETARY TO COMMENTS.—If, within 120 days of the publication of a performance assessment report under paragraph (1), the State, the Administrator, the National Academy of Sciences, or the EEG provide written comments on the report, the Secretary shall submit written responses to the comments to the State, the Administrator, the National Academy of Sciences, and the EEG, and to other appropriate entities or persons after consultation with the State, within 120 days of receipt of the comments.

SEC. 7. DISPOSAL OPERATIONS.

(a) TRANSURANIC WASTE LIMITATIONS.—

(1) REM LIMITS FOR REMOTE-HANDLED TRANSURANIC WASTE.—

(A) * * *

* * * * * * *

(3) NONDEFENSE WASTE.—Within the capacity prescribed by paragraph (4), WIPP may receive transuranic waste from the Secretary which did not result from a defense activity.

[(3)**]** *(4)* CAPACITY OF WIPP.—The total capacity of WIPP by volume is 6.2 million cubic feet of transuranic waste.

[(b) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic waste underground for disposal at WIPP only upon completion of—

[(1) the Administrator's certification under section 8(d)(1) that the WIPP facility will comply with the disposal regulations;

[(2) the submission to the Congress by the Secretary of plans for decommissioning WIPP and post-decommissioning management of the Withdrawal under section 13;

[(3) the expiration of the 180-day period beginning on the date on which the Secretary notifies the Congress that the requirements of section 9(a)(1) have been met;

[(4) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines, under section 4(b)(5), that such acquisition is not required;

[(5) the submittal to the Congress by the Secretary of comprehensive recommendations for the disposal of all transuranic waste under the control of the Secretary, including a timetable for the disposal of such waste; and

[(6) the completion by the Secretary, with notice and an opportunity for public comment, of a survey identifying all transuranic waste types at all sites from which wastes are to be shipped to WIPP, and—

[(A) the results of such survey shall be made available to the public and be provided to the Administrator; and

[(B) such survey shall not be subject to rulemaking or judicial review.**]**

SEC. 8. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) * * *

* * * * * * *

(d) DISPOSAL REGULATIONS.—

[(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—**]**

[(A)**]** *(1)* IN GENERAL.—The Secretary shall comply at WIPP with the final disposal regulations. Within 7 years of the date of the first receipt of transuranic waste at WIPP, the Secretary shall submit to the Administrator an application for certification of compliance with such regulations.

[(B) CERTIFICATION BY ADMINISTRATOR.—Within 1 year of receipt of the application under subparagraph (A), the

Administrator shall certify, by rule pursuant to section 553 of title 5, United States Code, whether the WIPP facility will comply with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

[(C) JUDICIAL REVIEW.—Judicial review of the certification of the Administrator under subparagraph (B) shall not be restricted by the provisions of section 221 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)).

[(D) LIMITATION.—Any certification of the Administrator under subparagraph (B) may only be made after the application is submitted to the Administrator under subparagraph (A).]

(2) COMMENTS OF ADMINISTRATOR.—Within 2 months of receipt of the application under subparagraph (A), the Administrator shall provide the Secretary with any comments on the Secretary's application. Within one month of the receipt of such comments, the Secretary shall, to the extent practicable, incorporate the Administrator's comments in the Secretary's application. The comments of the Administrator provided to the Secretary should also be transmitted to the appropriate committees of jurisdiction in the House of Representatives and the Senate.

[(2) FAILURE TO CERTIFY.—Except as provided in paragraph (3), if, upon the expiration of the 10-year period beginning on the date of the first receipt of transuranic waste at WIPP, the Administrator has not certified that the WIPP facility will comply with the final disposal regulations—

[(A) the Secretary shall implement the retrieval plan under section 10 and the decommissioning and post-decommissioning plans under section 13;

[(B) following implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management; and

[(C)(i) no permit or variance issued with respect to test phase activities or disposal operations pursuant to section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924), or other applicable hazardous waste laws, with respect to WIPP, shall remain in effect later than 1 year after implementation of the retrieval plan; and

[(ii) all transuranic waste shall be removed from the State unless, prior to the expiration of such 1-year period, a new permit or variance is issued pursuant to section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924), or other applicable hazardous waste laws.

[(3) EXTENSION OF DEADLINE.—The 10-year period in paragraph (2) may be extended once by the Administrator for not more than 2 years, if the Administrator determines that additional time is necessary for the Administrator to complete the rulemaking under paragraph (1)(B) or for the Administrator's certification to become effective under this subsection.]

* * * * * * *

(f) [PERIODIC RECERTIFICATION] *PERIODIC REVIEW.*—

(1) BY SECRETARY.—Not later than 5 years after the initial receipt of transuranic waste for disposal at WIPP, and every

5 years thereafter until the end of the decommissioning phase, the Secretary shall submit to the Administrator and the State documentation of continued compliance with the final disposal regulations.

[(2) CONCURRENCE BY ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission under paragraph (1), determine whether or not the WIPP facility continues to be in compliance with the final disposal regulations. A determination under this paragraph shall not be subject to rulemaking or judicial review.]

(2) REVIEW BY THE ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission under paragraph (1), comment on whether or not the WIPP facility continues to be in compliance with the final disposition regulations.

[(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary shall use both engineered and natural barriers, and waste form modifications, at WIPP to isolate transuranic waste after disposal to the extent necessary to comply with the final disposal regulations.]

(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary should determine whether or not engineered barriers or natural barriers, or both, will be required at WIPP consistent with regulations published as part 191 of 40 C.F.R.

SEC. 9. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) IN GENERAL.—

(1) APPLICABILITY.—Beginning on the date of the enactment of this Act, the Secretary shall comply with respect to WIPP, with—

(A) * * *

* * * * * * *

With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from the land disposal restrictions published at part 268 of 40 C.F.R. because compliance with the environmental radiation protection standards published at part 191 of 40 C.F.R. renders compliance with the land disposal restrictions unnecessary to achieve desired environmental protection and a no migration variance is not required for disposal of transuranic mixed waste at WIPP.

[(b) DETERMINATION OF NONCOMPLIANCE DURING TEST PHASE.—

[(1) DETERMINATION BY ADMINISTRATOR.—If the Administrator determines at any time during the test phase that the WIPP facility does not comply with any law, regulation, or permit requirement described in subsection (a)(1), the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such law, regulation, or permit requirement.

[(2) CONSEQUENCES OF NONCOMPLIANCE.—If—

[(A) a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance under paragraph (1); or

[(B) the Administrator determines, by rule pursuant to section 553 of title 5, United States Code, that a remedial plan requested under paragraph (1) is inadequate to bring the WIPP facility into compliance;

then the Secretary shall implement the retrieval plan under section 10 and the decommissioning and post-decommissioning plans under section 13, and, following implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management.

[(c) DETERMINATION OF NONCOMPLIANCE DURING DISPOSAL PHASE AND DECOMMISSIONING PHASE.—

[(1) DETERMINATION BY THE ADMINISTRATOR.—If the Administrator determines at any time during the disposal phase or decommissioning phase that the WIPP facility does not comply with any law, regulation, or permit requirement described in subsection (a)(1), the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such law, regulation, or permit requirement.

[(2) CONSEQUENCES OF NONCOMPLIANCE.—If—

[(A) a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance under paragraph (1); or

[(B) the Administrator determines, by rule pursuant to section 553 of title 5, United States Code, that a remedial plan requested under paragraph (1) is inadequate to bring the WIPP facility into compliance;

then the Secretary shall retrieve, to the extent practicable, any transuranic waste and any material contaminated by such waste from underground at WIPP, and implement the decommissioning and post-decommissioning plans under section 13. Following completion of such retrieval and implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management.

[(d) SAVINGS PROVISION.—The authorities provided to the Administrator and to the State pursuant to this section are in addition to the enforcement authorities available to the State pursuant to State law and to the Administrator, the State, and any other person, pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (40 U.S.C. 7401 et seq.).]

[SEC. 10. RETRIEVABILITY.

[(a) REQUIREMENT OF RETRIEVABILITY.—

[(1) IN GENERAL.—Transuranic waste emplaced in WIPP for purposes of the test phase shall be retrievable during the test phase, and for such period of time subsequent to the test phase as may be needed to provide for its retrieval in the event that—

[(A) the Secretary or the Administrator determines that WIPP does not comply with the final disposal regulations;

[(B) the transuranic waste needs to be retrieved for engineering modification or for repackaging for permanent disposal; or

[(C) such retrieval is necessary to protect the public health and safety and the environment.

[(2) ANNUAL DETERMINATION OF RETRIEVABILITY.—Beginning 1 year after the initial emplacement of transuranic waste underground at WIPP, and continuing annually throughout the test phase, the Secretary, after consultation with the Administrator, shall publish in the Federal Register the Secretary's determination of whether all such waste emplaced underground at WIPP remains, and will remain, fully retrievable during the test phase.

[(3) ANNUAL DEMONSTRATION OF RETRIEVABILITY.—The Secretary shall demonstrate, on an annual basis, in conjunction with the determination required in paragraph (2), that a sample of transuranic waste is retrievable. In making such demonstration, the Secretary shall not take any action to affect the test phase.

[(4) FAILURE TO MAINTAIN RETRIEVABILITY.—Upon a determination by the Secretary under paragraph (2) that transuranic waste cannot remain retrievable, and that corrective action is not possible, the Administrator and the State may, pursuant to the authorities provided in the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or any other applicable hazardous waste law, take action to ensure the retrieval or removal of all transuranic waste in WIPP.

[(b) IMPLEMENTATION OF RETRIEVAL PLAN.—The Secretary shall implement the retrieval plan or take corrective action to ensure the retrievability of transuranic waste in the event that a determination is made under subsection (a)(2) that the waste is not or will not otherwise remain retrievable.

[(c) CONFLICT RESOLUTION.—The State may invoke the conflict resolution provisions of the Agreement if it determines that there is an insufficient basis for the Secretary's annual determination of retrievability or that the demonstration of retrievability does not ensure that transuranic waste will be retrievable.]

SEC. 10. TRANSURANIC WASTE.

It is the intent of Congress that a decision will be made by the Secretary with respect to the disposal of transuranic waste no later than March 31, 1997.

* * * * * * *

SEC. 13. DECOMMISSIONING OF WIPP.

[(a) PLAN FOR WIPP DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary shall submit to the Congress, the State, the Secretary of the Interior, and the Administrator, a plan for the decommissioning of WIPP. In addition to activities required under the Agreement, the plan shall conform to the disposal regulations that apply to WIPP at the time the plan is prepared. The Secretary shall consult with the Secretary of the Interior and the State in the preparation of such plan.

[(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the] *The* Secretary shall develop a plan for the management and use of the Withdrawal following the decommissioning of WIPP or the termination of the land withdrawal. The Secretary shall con-

sult with the Secretary of the Interior and the State in the preparation of such plan and shall submit such plan to the Congress.

* * * * * * *

SEC. 15. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

(a) 15-YEAR AUTHORIZATION.—There are authorized to be appropriated [to the Secretary for payments to the State $20,000,000 for each of the 15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated] *to the State $20,000,000 for each of the 15 fiscal years beginning with the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act. An appropriation to the State shall be in addition to any appropriation for WIPP.*

* * * * * * *

CHAPTER 641 OF TITLE 10, UNITED STATES CODE

CHAPTER 641—NAVAL PETROLEUM RESERVES

Sec.
7420. Definitions.
7421. Jurisdiction and control.
7421a. Sale of naval petroleum reserves.

* * * * * * *

§ 7421a. Sale of naval petroleum reserves

(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to the lands owned or controlled by the United States inside the naval petroleum and oil shale reserves established by this chapter. In the case of Naval Petroleum Reserve Numbered 1, the lands to be sold shall include sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

(2) Not later than December 31, 1996, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the naval petroleum reserves.

(b) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than January 1, 1996, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in each naval petroleum reserve. In making their assessments for each naval petroleum reserve, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if it were not sold, adjusted for any anticipated increases in tax revenues that would result if it were sold. The independent experts shall complete their assessments not later than July 1, 1996. In setting the minimum acceptable price for each naval petroleum reserve, the Secretary shall consider the average of the five assessments regarding

the reserve or, if more advantageous to the Government, the average of three assessments after excluding the high and low assessments.

(2) Not later than March 1, 1996, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of the naval petroleum reserves under this section. The Secretary may enter into the contracts required under this paragraph and paragraph (1) on a noncompetitive basis.

(3) Not later than August 1, 1996, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of each naval petroleum reserve, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. Each draft contract shall identify all equipment and facilities to be included in the sales. Each draft contract, including the terms and provisions of the sale of the interest of the United States in the naval petroleum reserves, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(4) Not later than September 1, 1996, the Secretary shall publish an invitation for bids for the purchase of the naval petroleum reserves.

(5) Not later than November 1, 1996, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in the naval petroleum reserves, or a particular reserve, that meets or exceeds the minimum acceptable price determined under paragraph (1). The Secretary may accept an offer for only a portion of a reserve so long as the entire reserve is still sold under this section at a price that meets or exceeds the minimum acceptable price.

(c) FUTURE LIABILITIES.—The United States shall hold harmless and fully indemnify the purchaser of the interest of the United States in a naval petroleum reserve from and against any claim or liability as a result of ownership in the reserve by the United States.

(d) SPECIAL RULES PREPARATORY TO SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) Not later than June 1, 1996, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in that reserve as the Secretary considers appropriate. The Secretary may enter into the contract required under this paragraph on a noncompetitive basis.

(3) If, on the effective date of this section, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in

the manner provided in the unit plan contract not later than June 1, 1996. Such resolution shall be considered final for all purposes under this section.

(4) In this section, the term "unit plan contract" means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 (Elk Hills) entered into on June 19, 1944.

(e) PRODUCTION ALLOCATION REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in that reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of that reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

(2) The purchaser of Naval Petroleum Reserve Numbered 1 shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

(f) MAINTAINING PRODUCTION PENDING SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce that reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum efficient rate in section 7420(6) of this title shall not apply to Naval Petroleum Reserve Numbered 1.

(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date of this section, for the purchase of production from any part of the United States' share of the naval petroleum reserves, the sale of the interest of the United States in the reserves shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date of this section for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

(2) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of that reserve.

(3) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the unit

plan contract so that the unit plan contract terminates not later than the date of closing of the sale of that reserve.

(h) SET ASIDE OF SALE PROCEEDS ON ACCOUNT OF CALIFORNIA CLAIMS REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) An amount equal to seven percent of the proceeds from the sale of Naval Petroleum Reserve Numbered 1 shall be retained in a special account in the Treasury for the purpose of paying any amount that may be owed by the United States as a result of legal action in connection with claims against the United States by the State of California and the Teachers' Retirement Fund of the State of California with respect to lands within Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve.

(2) In determining the amount of the proceeds arising from the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall deduct the costs incurred to conduct the sale of that reserve.

(3) A payment may be made from the special account only to the extent that the aggregate amount of such payment is provided for in advance in an appropriations Act.

(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of a naval petroleum reserve or to the lands in the naval petroleum reserves subject to sale under this section upon the completion of the sale.

(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of the naval petroleum reserves.

(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of the naval petroleum reserves under this section. However, the Secretary may not enter into a contract for the sale of a naval petroleum reserve until the end of the 15-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives that the Secretary has accepted an offer under subsection (b)(5) for the sale of that reserve.

* * * * * * *

TITLE IV—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

COMMITTEE ON ECONOMIC
AND EDUCATIONAL OPPORTUNITIES,
Washington, DC, September 29, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR CHAIRMAN KASICH: Pursuant to the reconciliation directives contained in the Conference Report on House Concurrent Resolution 67, the budget resolution for fiscal year 1996, I am pleased to transmit reconciliation recommendations for programs within the jurisdiction of the Committee on Economic and Educational Opportunities. The recommendations contained in this formal transmission were approved by the full committee on September 28, 1995, by a vote of 23 to 14. A copy of the legislation, and report, including the committee views together with minority views, summary, section by section analysis, and other items necessary to comply with House Rules are enclosed. Pursuant to your request, this letter is being transmitted in concert with another letter of today's date containing transmittal of legislation for programs within the jurisdiction of the committee that have been considered in H.R. 4, the Personal Responsibility Act.

The budget resolution instructs the Committee on Economic and Educational Opportunities to report changes in laws within its jurisdiction that provide direct spending levels of $16.026 billion in fiscal year 1996, $77.346 billion for fiscal year 1996 through fiscal year 2000, and $110.936 billion for fiscal year 1996 through fiscal year 2002.[1]

I also understand the Budget Committee will include the necessary language to change credit reform as it appears in House Concurrent Resolution 67. As you are aware, this is a vital component of our reconciliation package. We look forward to working with you to retain this key provision.

I hope these proposals will be of assistance to your committee in meeting the budget reconciliation targets. If you have questions or comments, please do not hesitate to call me.

Sincerely,

BILL GOODLING,
Chairman.

[1] Assumes enactment of H.R. 4, the House-passed welfare reform legislation.

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The provisions of the recommendations are explained in this report.

PURPOSE

The conference report on House Concurrent Resolution 67, concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, as adopted by the House of Representatives on June 29, 1995, included instructions to the Economic and Educational Opportunities Committee to recommend changes in laws within its jurisdiction sufficient to reduce direct spending by $10.08 billion over the fiscal years 1996 through 2002 by making reforms in the student loan programs. The purpose of the committee's recommendations set forth in subtitle A of the accompanying legislation is to respond to those instructions.

The fiscal year 1996 conference report accompanying House Concurrent Resolution 67 also included instructions to the Committee on Economic and Educational Opportunities to reduce authorization outlays by $5.810 in fiscal year 1996 through fiscal year 2000 and a total 7 year reduction of $8.770 billion. To meet this target, the committee repeals the Davis-Bacon Act (the act of March 3, 1931, 40 U.S.C. 276a, et seq.) and assumes the elimination of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) as part of the overall reconciliation package.

The provision in subtitle C is intended to further the needs of pension plan participants to receive their benefits on a timely basis after they request a distribution from pension plans which are subject to the Employee Retirement Income Security Act of 1974 [ERISA].

COMMITTEE ACTION

On May 3, 1995, the Committee on Economic and Educational Opportunities, Subcommittee on Postsecondary Education, Training and Life-Long Learning, and the Committee on Government Reform, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs held a joint hearing on privatizing Government sponsored enterprises [GSE's]. Witnesses were: Ms. Darcy Bradbury, Deputy Assistant Secretary for Federal Finance,

Department of the Treasury, Washington, DC; Mr. Leo Kornfeld, Senior Advisor to the Secretary, Department of Education, Washington, DC; Mr. Lawrence Hough, president and chief executive officer, the Student Loan Marketing Association, Washington, DC; Mr. Oliver Sockwell, president and chief executive officer, the College Construction Loan Insurance Association, Washington, DC; Mr. Fred Khedouri, senior managing director at Bear, Stearns, and Co., Inc., New York, NY, and; Mr. Robert Torray, president of Robert Torray and Co., Bethesda, MD.

On May 23, 1995 the Committee on Economic and Educational Opportunities, Subcommittee on Oversight and Investigations held a hearing on the Federal Student Loan Program. Witnesses were: the Honorable Thomas Petri; the Honorable Ernest Istook; the Honorable Paul Simon; the Honorable Bart Gordon; Ms. Phyllis Hooyman, director of financial aid, Hope College; Dr. Diane Ryan, director of financial aid, California State University, Northridge; Mr. Otto Reyer, associate vice chancellor for student services and director of financial aid, University of California, Irvine; Ms. Lynn Fawthrop, chair, Advisory Committee on Student Financial Assistance; and Mr. Richard Pierce, president and chief operating officer, Maine Education Services.

On February 15, 1995, the Committee on Economic and Educational Opportunities, Subcommittee on Workforce Protections held a hearing on H.R. 500, legislation to repeal the Davis-Bacon Act. Testimony was received from: Cindy Athey, president of Precision Wall Tech, Inc.; Karen Kerrigan, president of the Small Business Survival Committee; Clarke Becker, mayor of Woodland Park, CO, representing the National League of Cities; and Sigurd Lucassen, general president of the United Brotherhood of Carpenters and Joiners. On March 2, 1995, the subcommittee favorably reported by voice vote H.R. 500, as amended, to the full committee.

On February 15, 1995 the Committee on Economic and Educational Opportunities, Subcommittee on Workforce Protections held a hearing on H.R. 246, legislation to repeal the Service Contract Act. The following individuals testified: Beverly Hall Burns, Esq., Detroit, MI; Frank E. Bazler, corporate attorney and assistant secretary (accompanied by Michael A. Ferreira, vice-president of product service, and Morgan W. VonLohr, manager, service projects) Hobart Corp. doing business as PMI Food Equipment Group, Troy, OH; and John J. Sweeney, president, Service Employees International Union, Washington, DC. On March 2, 1995, the Subcommittee on Workforce Protections favorably reported by voice vote H.R. 246, as amended, to the full committee.

LEGISLATIVE ACTION

On September 28, 1995, the Committee on Economic and Educational Opportunities assembled to consider a committee print, recommendation instructions to comply with House Concurrent Resolution 67. Chairman Goodling offered an amendment in the nature of a substitute to the committee print. The committee print with an amendment in the nature of a substitute was reported to the Committee on the Budget, September 28, 1995, by a recorded vote of 23 to 14.

SUMMARY

The following is a summary of the legislation as approved by this committee:

The committee's reconciliation recommendations: Terminate the Direct Student Loan Program; reduce costs in the Federal Family Education Loan Program through numerous reforms; revise the interest subsidy provisions in order to eliminate the subsidy on new loans during the 6-month grace period; privatize the College Construction Loan Insurance Association; repeal the Act of March 3, 1931, known as the Davis-Bacon Act; repeal section 2 of the Copeland Act, which sets forth certain reporting requirements intended to aid in Davis-Bacon enforcement and compliance; and allow the 30-day period prescribed by the Secretary of the Treasury in regulations to be waived by the participant and, if applicable, the participant's spouse.

COMMITTEE VIEWS

A BALANCED BUDGET

The committee recognizes that the single most important thing we can do for our children and for young Americans is to balance the Federal budget. Should Congress fail to act, by the year 2002 the national debt will exceed $6.5 trillion. According to the President's fiscal year 1995 budget, unless Federal spending is brought under control, the lifetime tax rate for children born in 1993 will exceed 82 percent. This means that over their taxable lifetime, these children will pay on average 82 percent of their incomes to the Government. And, by 1997, taxpaying Americans will be spending more for interest on our national debt than they do for the defense of our great country.

However, if we take advantage of this historic opportunity, and bring the Government's appetite for taxing and spending under control and balance the Federal budget, the result will be a reduction of interest rates by at least 2 percent, an increase in jobs, and a more competitive American economy. For example, a 2-percent reduction in interest rates will save the average American $37,440 on a $75,000 mortgage over the life of a 30-year loan. On a 5-year car loan of $15,000, the average American will save $900 if we balance the budget and reduce interest rates by 2 percent. And of course, with a balanced budget, students will see the interest rates on their student loans drop by 2 percent as well. The results? A more prosperous America, a brighter future for our children, and the creation of 6.1 million jobs over the 10-year period following a balanced budget.

Under the conference agreement on the budget resolution passed by both the House and the Senate, this committee has been instructed to achieve $10.08 billion in savings over the next 7 years from the Federal student loan programs. This is our contribution to a balanced budget. We are committed to meeting this target, and pleased to be a part of this sweeping effort to strengthen our Nation's economy. Many of us have college-aged children, as well as older children with children of their own. Balancing the budget is

absolutely essential to their future, and to the future of all Americans.

In achieving the savings asked of this committee, we have attempted to be both fair and equitable. Our over-arching goal has been to ensure that students continue to have access to affordable student loan capital; we have achieved that goal. The committee regrets that many of those who are opposed to balancing the budget have made irresponsible misrepresentations as to how we plan to achieve the necessary savings to reach our target. Claims have been made that the committee intends to eliminate Federal student loans, or somehow increase their costs to the point where college will no longer be affordable. Nothing could be further from the truth. In fact, this legislation:

Does not eliminate student loans;

Does not eliminate the in-school interest subsidy for either graduate or undergraduate students;

Does not increase the loan origination fees paid by students or increase their interest rates; and

Does not take away the interest rate reduction scheduled to take place in July 1998.

To get to the target of $10.08 billion in savings over 7 years, the committee requires lenders, secondary markets, and guaranty agencies to contribute the most toward a balanced budget, roughly $5 billion over 7 years.

These savings are achieved by:

Requiring lenders, rather than taxpayers, to pay the administrative expenses of the guaranty agency which guarantees their loans;

Extending the amount of time during which guarantors must attempt to establish or reestablish collection prior to receiving reimbursement for defaulted loans. During this time guaranty agencies will be required to use reserve funds to cover loan insurance;

Requiring those purchasing loans to pay a transfer fee to the Federal Government;

Eliminating the fees paid to guaranty agencies for performing collection activities beyond the 90th day of delinquency; requiring loan holders to rebate interest from PLUS loans to offset the costs of the program; and

Increasing the financial risk which lenders and guarantors undertake on student loans. For lenders, this means that they will receive 95 cents on the dollar for each loan in default. For guarantors, the amount the Federal Government pays a guaranty agency for defaulted loans will decrease from the current 98/88/78 cents on the dollar to 96/86/76 cents on the dollar based on an agency's default rate. This means if the default rate is less than 5 percent, agencies will receive 96 cents on the dollar; if the rate is greater than 5 percent but less than 9 percent, reimbursement will be 86 cents on the dollar; and if the rate is greater than 9 percent, reimbursement will be 76 cents on the dollar.

The committee notes that by increasing the amount of time during which lenders and guarantors must attempt to establish repayment on delinquent loans, the borrower is given additional time to

come into repayment before suffering the consequences of default. This provision is therefore both a benefit to borrowers and to taxpayers.

Additionally, savings are achieved by asking borrowers to be responsible for interest on their loans during the 6-month grace period between the time they leave school and enter repayment. This will not result in any borrower being required to enter repayment prior to the end of the 6-month grace period; *borrowers will continue to receive this benefit.* Instead, graduated students will be given the choice of repaying the interest on their loans during that period, or allowing it to accrue and repaying it when they begin repaying their loans. For the average undergraduate borrower, this will hardly increase monthly loan payments.

The remainder of the savings are achieved through the elimination of the costly Direct Student Loan Program. This program was enacted during the budget reconciliation of 1993. At that time, the Congressional Budget Office [CBO], using budget scoring rules which failed to account for the costs of administering direct student loans over most of the life of the loans, estimated that a move to direct lending would save $4.3 billion through 1998. Republican members of the Committee questioned the validity of the estimate, to which Robert Reischauer, then Director of the Congressional Budget Office, responded:

> The administrative costs associated with the Administration's direct loan program are not evenly divided over the life of the loan. Rather, the administrative costs are disproportionately associated with the collection of interest and principal payments and this collection does not begin until the student has left school, often several years after receiving the loan. For this reason, the administrative costs included in [CBO's] estimate for the first years of a direct loan program are much lower than the full administrative costs of a direct loan program.

The result was that under the guise of flawed scoring, the Direct Student Loan Program was enacted to provide increased benefits to students.

Now, in 1995, we have an accurate accounting of the costs of both the Direct and Guaranteed Student Loan Programs. According to the CBO, complete elimination of the Direct Student Loan Program, returning all student lending to the private sector, will *save* $1.5 billion over the next 7 years without any cost to students.

We are also extremely concerned over the prospect of the Department of Education becoming one of the world's largest banks. For some reason, the administration appears to be replacing the Guaranteed Student Loan Program with a program that nationalizes the student loan industry, in addition to adding over $340 billion to the national debt by the year 2014. Given the Department's apparent willingness to use taxpayer funds to improperly advertise the direct loan program, we can only assume this to be part of the President's re-election campaign.

Let us be clear: we believe that the private sector is far more efficient and effective at delivering and collecting student loans than the Department of Education will ever be. To date, under the Fed-

eral Family Education Loan Program [FFELP], private lenders have supplied students and parents with 74 million student loans totaling in excess of $180 billion. In contrast, the Direct Student Loan Program has been around for just over a year, and has really only been tried on 104 campuses. It is unclear whether the Department will be able to handle an expansion of this program, or even be able to effectively collect the loans which it has already made. Currently, the Department cannot even provide an accurate list of the schools participating in the direct loan program and the dollar volume of the loans that they can be expected to make. It would be risky at best to rely on the administration's Direct Student Loan Program.

In recommending the elimination of the administration's Direct Student Loan Program, the committee is choosing benefits for students over entitlements for bureaucrats. Unfortunately, the continuation of the Direct Student Loan Program would require us to increase costs to students. At this time, it makes no sense to continue the direct lending experiment.

COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

The College Construction Loan Insurance Association, Connie Lee or the Corporation, is an example of a very successful public-private partnership which has served its purpose. Connie Lee was authorized by Congress under title VII of the Higher Education Amendments of 1986. At that time, the deterioration of physical infrastructure was a pressing problem for institutions of higher education, and low cost financing of improvements to facilities was an option only for those institutions considered to be of the highest credit caliber. Connie Lee was chartered to underwrite the financing of facilities construction and improvement for the more mainstream institutions. For the Government, the creation of Connie Lee provided the best solution to the problem; leveraging a significant amount of private capital while exposing the Government to little liability.

Since that time, Connie Lee has insured or reinsured nearly $10 billion in principal and interest for academic facilities. However, Connie Lee's success in fulfilling its mission has created a situation where severing its relationship with the Government is desirable for both parties.

ADVANTAGES OF PRIVATIZATION

Connie Lee has never enjoyed the advantages accorded to most Government Sponsored Enterprises [GSE's]. Connie Lee has no Federal line of credit. Connie Lee does not use federally backed debt to fund its operations, and it must pay State and local income taxes and Federal Exchange Commission filing fees. In fact, the Higher Education Act (section 751 (b)) specifically prohibits Connie Lee from being a Government Corporation or Government-controlled Corporation. Clearly, Connie Lee was meant to be a fully private company.

However, the committee recognizes that the Department of Education's minority ownership of stock, 14 percent, coupled with a Government charter restricting Connie Lee's business activities does create the perception of implicit Government protection for the

Corporation. Therefore, the complete privatization of Connie Lee would benefit both the Corporation and the Government.

For Connie Lee, privatization means the ability to determine its own destiny. Currently, its business activities are narrowly limited. Privatization would allow Connie Lee to use its expertise in facilities underwriting to help secure funding for elementary and secondary schools, higher education facilities which do not currently fall within its charter guidelines, and local municipal projects.

In return, the taxpayer is relieved of the perception of any implicit risk of loss should Connie Lee have financial difficulties. This shift in philosophy represents a clear departure from business as usual in Washington. It represents a willingness on the part of the Government to recognize when a Federal presence is no longer needed, and it reduces the Government's presence in the marketplace.

Section 4010 privatizes Connie Lee upon enactment and allows up to 6 months for the sale of stock owned by the Department of Education. Prior to the sale of the federally held stock, the Federal directors on Connie Lee's board would retain their positions. In this way, the taxpayer is assured the maximum return for the initial investment in Connie Lee, and the Corporation is not unnecessarily prevented from putting its resources to more productive uses.

Government entities and Government sponsored enterprises such as the Student Loan Marketing Association are prohibited from acquiring new stock in the Corporation. Additionally, the Student Loan Marketing Association, which currently holds 35 percent of the Corporation's outstanding stock, is prohibited from controlling the operations of the Corporation. However, the Student Loan Marketing Association is allowed to retain the Connie Lee stock it holds as of the enactment date, and is allowed to retain its representation on Connie Lee's board.

The committee believes that the Secretary of the Treasury will be able to sell the federally held stock in the Corporation at a price which ensures the maximum return to the taxpayer. However, in the event that the Secretary of the Treasury is unable to sell the federally held shares of the Corporation, Connie Lee is required to repurchase the stock at a mutually agreeable price not to exceed the value estimated by the Congressional Budget Office in House Report 104–153. This provision protects both the taxpayer and Connie Lee.

In addition, the Corporation has agreed to amend its articles of incorporation to reflect that serving the needs of lower investment grade educational institutions shall be a purpose of the Corporation. The Corporation will furnish reports to the Secretary of Education on its efforts to assist in the financing of educational facilities including elementary, secondary, and postsecondary, for a period of 2 years after the Federal divestiture of stock.

The privatization of Connie Lee is good policy and is consistent with the intent of this legislation, that is., controlling Federal expenditures and balancing the budget. The Congressional Budget Office has indicated that this provision will make money for the treasury. Perhaps more importantly, severing Connie Lee's tie to the Federal Government by selling the federally owned stock in the Corporation and lifting the Corporation's restrictive charter also re-

moves any implicit contingent liability from the taxpayer in the event that Connie Lee ever experienced financial difficulties.

ELIGIBLE INSTITUTIONS

Section 4011 clarifies that the Secretary of Education shall not implement the 85/15 rule with respect to eligibility for proprietary institutions under title IV of the Higher Education Act of 1965—Section 481(b)(6)—on a retroactive basis and that, for the purpose of complying with the 85/15 rule, any revenues earned by a proprietary institution from training contracts with business or industry shall be counted as non-title IV revenues.

The 85/15 rule was enacted as a floor amendment to the Higher Education Amendments of 1992. This rule limits the eligibility of proprietary schools from participation in title IV programs to those schools receiving at least 15 percent of their revenues from non-title IV sources. The intent of this provision is simple and straight forward. For-profit, proprietary institutions of higher education must not be solely reliant on Federal student financial assistance for income. The committee remains concerned over the Department of Education's implementation of this regulation. While the rule itself is simple, the Department's current interpretation of it is baffling. For instance, the Department's regulations fail to count revenues from sources such as contract training, provided to businesses willing to pay for it, and toward the institution's non-Federal revenues. The intent of the 85/15 rule was to ensure that schools were providing training which was of great enough value that it would be sought regardless of the availability of Federal funds. Clearly, this training is of value.

In addition, the Department seems intent on implementing this regulation retroactively, at least for some proprietary schools. The final regulations implementing the 85/15 rule were published on April 29, 1994, to be enforced as of July 1, 1994, on the basis of a school's preceding fiscal year. During the last Congress, many members of this committee were troubled with the Department of Education's intent to enforce the rule in such a manner. As a result, the 1995 Labor, HHS and Education appropriations bill included a 1-year delay of the regulations published by the Department of Education implementing the 85/15 rule. However, the committee notes that the Department is again free to implement the 85/15 rule and that in so doing, it intends to base compliance on an institution's most recently completed fiscal year. For many schools, this will again amount to a retroactive application of the regulations. For example, a school which bases its fiscal year on the calendar year would have to show that it was in compliance with the regulation from January 1, 1994, through December 31, 1994, even though the Department's regulations were undergoing revision for 4 months of that year. This provision clarifies the intent of Congress that the Department of Education, when implementing the 85/15 rule, shall only consider an institution's financial information for a fiscal year which began on or after April 30, 1994. This date coincides with the publication date of the final regulations implementing the 85/15 rule and prevents any retroactive application of those regulations for purposes of determining an institution's eligibility for title IV programs.

The committee views this as both a fairness issue and an access issue. Clearly, the Secretary must enforce the law. However, the Secretary should not hold institutions to standards which were not final prior to the beginning of the fiscal year in question. Nor should the Secretary discount contract training funds from industry as a source of non-Federal revenue. Additionally, the committee is concerned that the Secretary's flawed interpretation of section 481(b)(6) might inadvertently eliminate title IV eligibility for students at a number of quality institutions. As we move to streamline the Federal Student Loan Program and reduce the profitability of the program for lenders, secondary markets, and guarantors, the committee believes it is essential to take steps such as this one to ensure that students have access to shorter term programs.

Section 4011 will prevent the retroactive application of these regulations and will correct the Secretary's interpretation of non-title IV revenues.

CONCLUSION

Again, committee members feel a tremendous sense of responsibility in recommending these reductions. We believe that we have come up with recommendations which meet our reconciliation instruction of saving $10.08 billion over 7 years while at the same time maintaining access to a quality education for millions of Americans. If the Federal budget is ever to be balanced, and the benefits to the American people from doing so are ever to be realized, these steps are necessary. We do not shrink from this responsibility, but readily accept it. We are both pleased and honored to be a part of this monumental effort.

REPEAL OF THE DAVIS-BACON ACT

Background

The Davis-Bacon Act was the first of the Federal prevailing wage laws. The concept of a prevailing wage for workers began at the State level and sparked congressional interest in the creation of a Federal prevailing wage. Congressional hearings on maintaining local labor standards were first held in 1889.

Legislation was proposed in 1927 by Representative Robert L. Bacon which required contractors on Federal construction projects to comply with State laws regulating the wages of employees.[1] Hearings followed in 1927, 1928, and 1930 with the introduction of a number of bills concerning a Federal prevailing wage.

By 1931, with the Depression already underway, mass unemployment was on the rise. Work was scarce and there was an oversupply of labor which resulted in a lowering of wages. The private construction industry, as with other industries, was continuing to shrink and becoming increasingly dependent on public construction contracts.[2] The Federal Government, in an effort to help alleviate the economic conditions, initiated a massive construction program.[3] The majority of construction work available at that time was on

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[1] U.S. General Accounting Office, "The Davis-Bacon Act Should Be Repealed," HRD-79-18, April 27, 1979, p. 116. (Hereinafter referred to as "GAO Report, 1979").

[2] Thieblot, Armand J., Jr., "Prevailing Wage Legislation," The Wharton School, Industrial Research Unit, University of Pennsylvania, 1986, p. 29.

[3] GAO Report, 1979, supra note 1, p. 117.

Federal contracts for post offices, veterans hospitals, and the like. Contractors had no trouble finding workers who were willing to accept meager wages.[4]

It was these conditions which led to increased congressional concern that the Federal Government might contribute to depressing local wages by contracting with so-called itinerant contractors who were employing aliens and transporting itinerant cheap labor to work on Federal jobs.[5] Representative Bacon led the debate by blaming "certain itinerant, irresponsible contractors, with itinerant, cheap, bootleg labor," for depressing the wage standards of the local community and for denying local contractors the chance to compete for Federal construction contracts.[6] Interestingly, this argument was not given as a rationale for the passage of prevailing wage legislation at the State level or for Federal legislation proposed in the 1920's.[7]

While protection of the local economy from outsiders became the basic philosophical argument in favor of a Federal prevailing wage requirement, the argument was not well supported at the time.[8] In fact, this argument appears to have been an exaggeration. Out of 26 Federal building projects under construction in 1930, the U.S. Treasury Department showed that only 21 percent of the workers were outside workers and only 2 percent were alien workers.[9]

In 1931, the Comptroller General under President Herbert Hoover, expressed his opinion that a Federal prevailing wage would: "remove from competitive bidding on the project an important element of cost and tends to defeat the purpose of the statute—that is, to obtain a need of the United States, authorized by law to be acquired, at a cost no greater than the amount of the bid of the low responsible bidder, after full and free competitive bidding."[10]

Nevertheless, Representative Bacon again introduced prevailing wage legislation while a companion bill was introduced by Senator James Davis. During a House hearing, Representative Bacon indicated that the bill "is simply to give local labor and the local contractor a fair opportunity to participate in this building program."[11] In hearings on the legislation by Senate and House committees, there were reservations about the effectiveness of the legislation, but many feared that any changes would delay enactment. As such, Congress treated the legislation as an emergency measure in response to the unemployment situation, and the measure was passed and enacted into law on March 3, 1931.

In its original form, the statute required that on contracts of over $5,000 for construction, repair, or alteration of any Federal building, the Secretary of Labor was to require contractors to pay not less than the prevailing wage to the corresponding classes of laborers and mechanics employed on similar projects in the city, town,

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[4] Thieblot, supra note 2, p. 29.

[5] GAO Report, 1979, supra note 1, p. 117.

[6] U.S. Congress, House, floor debate, "Rates of Wages for Laborers and Mechanics on Public Buildings of the United States," motion to pass S. 5904, Feb. 28, 1931, passed, 71st Cong., 3d Sess. 74 Congressional Record at 6510 (1931).

[7] Thieblot, supra note 2, p. 29-30.

[8] GAO Report, 1979, supra note 1, p. 118.

[9] GAO Report, 1979, supra note 1, p. 118.

[10] House Education and Labor Committee, "Legislative History of the Davis-Bacon Act," Committee print, 87th Cong., 2d Sess. 2 (1962).

[11] U.S. Congress, House, Congressional Record, 71st Cong., 2d Sess., 1931, 74, pt. 7 (6510).

village, or other civil subdivision of the State in which the buildings were located.[12] Almost immediately, both contractors and labor had problems with the act. Furthermore, the act did not provide the Secretary of Labor with the authority to determine the wages or to enforce them, and contractors were able to circumvent the intent of the act.

Responding to these concerns, Congress passed the Davis-Bacon Act Amendments of 1935. The threshold under the act was reduced to $2,000. The coverage of the act was further extended to cover contracts for painting and redecoration, as well as highways and dams. The contracting agency was given the authority to withhold funds from the contractor sufficient to pay the appropriate wages to any workers underpaid by a contractor. The Comptroller General was directed to keep track of contractors who had not met their obligations to employees and could bar contractors from work on Federal projects for a 3-year period. Contractors were to pay workers weekly and in full. The Secretary of Labor was authorized to specify the wages to be paid to the various classes of workers, so that contractors could know what their obligations were prior to bidding on a Federal contract. Finally, the President was given the authority to suspend the act in the event of a national emergency.[13]

The Copeland "anti-kickback" Act was passed in 1934 as a means for enforcing the Davis-Bacon Act requirements. The Copeland Act prohibited anyone from compelling an employee to return wages by "force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever." The act prescribes a $5,000 fine or imprisonment of up to 5 years, or both. The Secretary of Labor was given the authority to require all contractors on Federal construction projects to submit and certify weekly payroll reports detailing daily hours, wage rates, total earnings, and any deductions.[14]

The Davis-Bacon Act was subsequently amended on four other occasions. The most recent amendments in 1964 defined wages to include fringe benefits, such as medical, life, and accident insurance as well as pension, unemployment and retirement benefits.[15]

COMMITTEE'S VIEWS ON THE REPEAL OF THE DAVIS-BACON ACT

In the committee's view, the Davis-Bacon Act should be repealed. The rationale which was given for its enactment in the 1920's and 1930's can no longer justify the continued existence of the act. Furthermore, the arguments in favor of a prevailing wage law were never very persuasive, yet the act remains on the books, adding millions and millions of dollars to Federal construction costs.

The economic conditions which bolstered the arguments for a prevailing wage law have long since disappeared. The high unemployment of the Great Depression which was the impetus for passage of the act as an emergency measure, has long since abated. In 1931 when the Davis-Bacon Act went into effect, there were no minimum wage laws or other labor laws with protections for work-

[12] Act of March 3, 1931, ch. 411, 46 Stat. 1494(1931).
[13] Act of August 30, 1935, ch. 825, 49 Stat. 1011.
[14] 40 U.S.C. 276(c)(1988).
[15] Act of July 2, 1964, Public Law No. 88-349, 78 Stat. 238 (1965).

ers. Since that time, Congress has enacted numerous laws which protect the wages and working conditions of *all* workers.[16]

The arguments favoring repeal put forth by the General Accounting Office [GAO] in a 1979 report to Congress remain as relevant today as then. The GAO study found that: First, the act is unnecessary in light of the significant changes which have occurred in economic conditions and worker protection laws since the 1930's; second, the act has been and continues to be impractical to administer, resulting in the Department of Labor developing and issuing inaccurate wage determinations; and third, the act is inflationary because it adds "several hundreds of millions of dollars annually in unnecessary construction and administrative costs."[17]

SIGNIFICANT COST SAVINGS

The committee recognizes that repeal of the Davis-Bacon Act would result in significant savings to the taxpayers. The application of the act to Federal construction projects clearly adds to their cost. At a time when every American is being asked to sacrifice something in order to protect our children's future, it would be unconscionable to let the Davis-Bacon Act continue to exist. The Congress is under increasing pressure to balance the budget. The taxpayers are demanding that Government be more efficient and held accountable for the expenditure of their hard-earned tax dollars. Repealing the act would save $2.7 billion over the next 5 years, according to the Congressional Budget Office. Some $48 billion in annual construction for fiscal year 1996 will fall under coverage of the Davis-Bacon Act.[18]

The burdens of the law do not fall evenly on society or the economy. In effect, Davis-Bacon is a tax on construction. Dr. Lawrence B. Lindsey, member of the Board of Governors of the Federal Reserve Board, concluded that:

> [In Baltimore, MD,] the estimate of the so-called Davis-Bacon tax on inner city construction was between 5 and 10 percent. Adding 10 percent to the cost of a housing unit is the equivalent of adding a full percentage point to an 8 percent 30-year mortgage. In short, Davis-Bacon requirements effectively wipe out much of the good banks do when they lend to such projects at concessionary rates.[19]

Furthermore, the committee is concerned about the cost effects of Davis-Bacon requirements on State and local governments. The total cost of Davis-Bacon extends to State and local government construction programs, having the same practical implications as

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[16] e.g., the Fair Labor Standards Act of 1938 (minimum wage, payment of overtime, and child labor restrictions); the Miller Act of 1935 (performance and payment bond requirements to assure that workers are paid for work performed); the Contract Work Hours and Safety Standards Act of 1962 (overtime for any hours worked over 8 per day); Social Security (unemployment compensation); the Wagner-Peyser Acts (employment service); the Occupational Safety and Health Act of 1970 (safety and health conditions in the workplace); the National Labor Relations Act of 1935 (the right to organize and collectively bargain); and the Fitzgerald Act of 1937 (standards for apprenticeship training).

[17] GAO Report, 1979, supra note 1.

[18] Letter of June E. O'Neill, the Congressional Budget Office, to Chairman Cass Ballenger, House Subcommittee on Workforce Protections, April 21, 1995.

[19] Remarks by Lawrence B. Lindsey in his speech, "Increased Opportunity Through Deregulation," before the Financial Institution's Joint Housing Conference in Detroit, MI, October 29, 1994.

an unfunded mandate. If the Federal Government contributes funding toward a local project, then Davis-Bacon wages must be paid. Mayor Clarke Becker of Woodland Park, CO, testified that:

> In some cases, Federal funding for public projects barely covers the costs of compliance with Davis-Bacon and leaves little to be directed toward the costs associated with the actual project construction. Numerous cities have been forced to scale back and even eliminate public projects because of the additional financial burden the Davis-Bacon provisions impose. Such decisions cause delays in the construction and repair of essential public infrastructure and as a result, put our citizens at risk.[20]

The cost impact of Davis-Bacon requirements is particularly burdensome in the area of school construction. The Davis-Bacon Act severely hampers the ability of school districts to reduce construction costs. Many of the Nation's public schools are in a state of disrepair, at a time when State, local, and Federal funding for the much-needed upgrades and renovation is declining. As Boyd W. Boehlje, president of the National School Boards Association, testified before the Senate Committee on Labor and Human Resources:

> The Davis-Bacon Act has skewed local decisionmaking regarding the school districts' ability to accept Federal funds to meet their construction needs. One anecdote was recently related by a former Loudoun County, VA, school board member about building the Monroe Vocational Technical Center in Leesburg, VA. The school board sought to tie in the Federal vocational education funds for construction. The State was offered a Federal grant for $24,000. The Loudoun County school board declined the grant because the Federal funds would have been spent on the required Davis-Bacon wages.[21]

INTEGRITY AND COSTS OF PUBLIC CONTRACTING

The primary criticism of the Davis-Bacon Act over the years has been the requirement that contractors pay higher than market wages and benefits on Federal construction. Editorial writers throughout the country have repeatedly characterized the law as special interest legislation designed to protect one group of beneficiaries at the expense of other construction workers, contractors, and taxpayers.[22]

Recently public scorn has increased since the release of an investigative report detailing widespread fraud in the survey process used by the Department of Labor to determine prevailing wages. This report, entitled "The Davis-Bacon Act and Fraudulent Wage

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[20] Testimony of Mayor Clarke Becker, Woodland Park, CO, on behalf of the National League of Cities, before the House Subcommittee on Workforce Protections, Serial No. 104–21, February 15, 1995, p. 21.

[21] Testimony of Boyd W. Boehlje, president of the National School Boards Association, before the Senate Committee on Labor and Human Resources, S. Hring. 104–18, February 15, 1995, p. 13.

[22] "Two Thumbs Down On the Davis-Bacon Act: What Are Newspaper Columnists and Editors Across the Country Saying about the Davis-Bacon Act?" The Coalition to Repeal the Davis-Bacon Act, 1995, passim.

Data Submitted to the U.S. Department of Labor,"[23] uncovered numerous instances in Oklahoma of interested parties claiming phantom projects and ghost employees, all with the intent of inflating the official wage rates issued by the Department of Labor. In some instances, employees were allegedly paid $5 to $10 an hour more than actual market wages in the area. After repeated demands by local authorities and the involvement of members of this committee, the Department of Labor revoked the wage determinations in Oklahoma City and Tulsa because of the allegations of fraudulent data.

Scandals of the nature of the Oklahoma experience erode public confidence in the Government procurement process. The Department of Labor has been unable to satisfy the committee that similar and other abuses of the survey process do not and cannot occur elsewhere. The committee believes that repeal of Davis-Bacon is the best means of eliminating further potential for abuse in the process and restoring vital public confidence.

FREE MARKET COMPETITION

The committee believes that repeal of the Davis-Bacon Act would allow for free market competition in Federal construction contracting. The act serves as an impediment to small and minority businesses, which might otherwise participate in Federal construction contracting. Contractors who pay less than Davis-Bacon wages on private construction projects are deterred from bidding on Federal projects because they fear the disruptive effects of two-tier pay scales. Consequently, contracts for Federal construction projects attract less competition and higher winning bids.

The Subcommittee on Workforce Protections heard testimony from Cindy Athey, president of Precision Wall Tech, Inc., about the problems with two-tier pay scales.[24] Her painters, for example, are paid $21.24 per hour on Federal projects, compared with $14 per hour on private projects. In her opinion, the Davis-Bacon wage scale deters workers from being productive and efficient. In particular, it becomes a problem when her workers go back to performing private work and she is forced to lower their wages to the true market rate.

The Subcommittee on Workforce Protections heard testimony from Karen Kerrigan, president of the Small Business Committee, about the effect of the Davis-Bacon Act on competition:

> Wages are best determined in a competitive marketplace, not according to the unrealistic estimates from government bureaucrats in Washington, DC. The market allows wages and costs to adjust according to a host of criteria, including competition, skill levels and productivity, demand, supply, capital investment, et al. The Davis-Bacon Act's wage criteria distort the marketplace, artificially favoring large businesses over small entrepreneurial firms; and higher-skilled and higher-paid workers over less-experienced, lower-skilled workers, regardless of job

[23] "Wage Requirements to be Yanked, Officials Say," Oklahoman Times, July 29, 1995.

[24] Testimony of Cindy Athey, president of Precision Wall Tech, Inc., before the House Subcommittee on Workforce Protections, Serial No. 104–21, February 15, 1995, p. 5, 6.

> criteria. Lack of competition, increased paperwork, and inflated wages mean higher costs for taxpayers and the economy.[25]

The inflated wage levels under the Davis-Bacon Act and the specialized administrative requirements in effect create a government-favored class of both workers and contractors, shutting out those who are unable to match these artificial wages or to master the necessary complexities. In sum, a world of protectionism is created by the act to protect a select few at the expense of the taxpayer. As one contractor noted:

> Many businesses, small and large alike, find the restrictions associated with the Davis-Bacon Act too difficult and too costly to make participation in Federal work a viable option. Without Davis-Bacon, Federal work could be bid on an open playing field like private work * * *
>
> Davis-Bacon creates a special niche in the construction market, accessible only to certain contractors. These contractors have a virtual monopoly on Davis-Bacon work and on the subsidy that comes with this work. * * * Davis-Bacon is about inflated wages being funneled to a small industry segment at a high cost to taxpayers. * * *[26]

Significant in the legislative history of the act is the absence of any mention of an intent to drive up or prop up area wages in the private sector. The only concern expressed by supporters of the law during the Great Depression was a desire to prevent the Federal Government's massive construction initiative from driving down wages. The framers of the wage-setting law expressed no goal of inflating private wages on private construction.

The opponents of repeal, however, have adopted just such a rationale. By some estimates, repeal of the Davis-Bacon Act would result in a decrease in all construction wages by almost $1,500 yearly.[27] The estimate suggests either a primary rationale for repeal, or its own inaccuracy.

If the calculations are accurate, then the Davis-Bacon Act, designed to mirror the private sector, has evolved into an industry-wide minimum. The law would thus have the effect of inflating not just Federal construction, but all private construction as well. The impact on the economy would therefore be far beyond the Congressional Budget Office estimate of $2.7 billion over 5 years. Such estimates prove the point that the Davis-Bacon Act is unrestrained social engineering and inflationary.

In the converse, denial of the logical results of the $1,500 loss per employee proves the inaccuracy of the estimates themselves. Either the act improperly drives up the costs for all construction, or the estimates are flawed. In either case, the benefits of repeal are reinforced.

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[25] Testimony of Karen Kerrigan, president of the Small Business Survival Committee, before the House Subcommittee on Workforce Protections, Serial No. 104–21, February 15, 1995, p. 14.

[26] Letter of Mr. Gary E. Hess, president, Hess Mechanical Corporation, Upper Marlboro, MD, to Chairman William F. Goodling, Committee on Economic and Educational Opportunities, September 21, 1995.

[27] Mangum, Garth, et. al., "Losing Ground: Lessons from the Repeal of Nine 'Little Davis-Bacon' Acts," University of Utah, February, 1995.

Repeal of the Davis-Bacon Act would enhance free market competition because it removes the artificial and outmoded job classifications found in the wage determinations issued by the U.S. Department of Labor. The Department seeks to identify and classify the thousands of construction jobs performed throughout the country. While such a task may have been easier in the 1930's when union jurisdictional rules dictated practice, modern construction is highly complex. Actual work practices vary within regions, across towns, and even within companies. In many smaller companies, job assignments are exceedingly individualized and pay scales are adjusted accordingly. No form of legislative or administrative reform can satisfy the need of the industry for classifications which match the true work environment.

INCREASED JOB OPPORTUNITIES

The committee believes that repeal of the Davis-Bacon Act would increase job opportunities and reduce discrimination against unskilled workers, many of whom are minorities. Not only does the Davis-Bacon Act drive up the cost of construction, but it tends to deprive local residents of job opportunities. While Davis-Bacon was intended to protect the local wage structure, local contractors and workers today are closed out of projects in their own communities by the very law designed to protect their existence.

As Sara Jean Lindholm, chairman of City Lands Corp. a community development banking institution, noted in testimony before the Subcommittee on Labor Standards, Occupational Health and Safety:

> The present structure and implementation of these requirements presents a major obstacle to comprehensive community development in the inner cities and a major stumbling block to equality of opportunity. As I understand it, a major intent of the Davis-Bacon Act was to ensure that Federal contracts reflect the local labor market, which should not be disrupted by the importation of outside labor. However, from the vantage point of the inner city, implementation of the act today leads to exactly the reverse outcome and denies neighborhood residents the opportunity to work on projects that are designed to redevelop their own communities * * *
>
> Specifically, the effect of the implementation of the act has been to ensure that virtually all federally subsidized housing projects in the inner city—where jobs are desperately scarce—are constructed using a majority of imported labor from the suburbs and from other more affluent city neighborhoods * * * Not only are we needlessly inflating the cost of producing affordable housing, but we are failing to generate the economic and socially beneficial spin-off created by local employment.[28]

The Davis-Bacon Act works to the disadvantage of unskilled or low-skilled laborers, who desperately need on-the-job training to

[28] Testimony of Sara Jean Lindholm, chairman of City Lands Corporation, before the Subcommittee on Labor Standards, Occupational Health and Safety, Serial No. 103-5, May 4, 1993, p. 57, 58, 61.

become skilled craftsmen. An unskilled worker must be paid the same wage as a skilled worker, thereby creating a disincentive for contractors to hire the unskilled worker. For example, if a company is required under Davis-Bacon to pay a worker in a particular job classification $15 per hour, it is going to hire a skilled worker, thus effectively shutting out those who most need the opportunity to acquire job skills and work experience. Essentially, Davis-Bacon requires companies to use overqualified employees for menial tasks or to overpay inexperienced employees.

ELIMINATION OF UNNECESSARY RECORDKEEPING REQUIREMENTS

Repeal of the Davis-Bacon Act and the related Copeland "anti-kickback" Act would reduce unnecessary paperwork and recordkeeping requirements. The current requirements for certified weekly payroll reports detailing daily hours, wage rates, total earnings, and deductions are onerous. Businesses spend approximately $100 million per year[29] in order to comply with the recordkeeping requirements. Many contractors must hire additional employees and equipment in order to keep up with the weekly certified payroll reports.

Vice President Gore's National Performance Review report "From Red Tape to Results: Creating a Government that Works Better and Costs Less," suggested that detailed reporting under the Copeland Act was an unreasonable burden on Federal contractors. The report recommended eliminating the weekly payroll reports.[30]

Finally, the committee notes that there are some beneficiaries of the act who tout reform as a reasonable alternative to repeal. They suggest a rise in the threshold and a reduction in paperwork requirements. At the same time, however, they would expand coverage of the act to off-site work and new job classifications. They would also permanently ban the use of work classifications which are actually prevailing in private construction, such as helpers, semiskilled workers who assist a skilled tradesman. The committee does not believe that such recommendations constitute reform. Furthermore, the committee believes that the problems with the Davis-Bacon Act are not merely technical or administrative; they are fundamental. The history of the Service Contract Act illustrates that repeated efforts to amend flawed prevailing wage policy results in further bureaucratic burdens and market disruptions. No amount of fine-tuning can adjust for the increasingly innovative and competitive realities of the construction industry today.

In sum, the Davis-Bacon Act hinders efficiency and opportunity in Federal construction contracting. The act is expensive, unnecessary, incapable of effective administration, anti-competitive, and discriminatory. For these reasons, the committee recommends that the Davis-Bacon Act be repealed.

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[29] Kerrigan, *supra* note 25, p. 13.

[30] "From Red Tape to Results: Creating a Government that Works Better and Costs Less," Report of the National Performance Review, September 7, 1993, p. 31.

REPEAL OF THE SERVICE CONTRACT ACT

BACKGROUND

The issue of providing service employees with specific labor standards protections was not a new idea. Workers employed by other types of contractors performing Government work had enjoyed specific wage and benefit protections for years. In 1931, the Davis-Bacon Act was the first of the prevailing wage laws enacted to cover Federal construction contracts valued at $5,000 or more (it was later dropped to $2,000). And, in 1936, the Walsh-Healey Public Contracts Act provided a minimum wage requirement for employees of manufacturing and supply companies who did business with the Federal Government on contracts in excess of $10,000.

In the 88th Congress 1963–64, hearings were conducted on this issue and a bill was reported by the House Committee on Education and Labor. However, the measure failed to clear the Rules Committee. In the 89th Congress, 1965–66, an initiative was offered by Representatives Tom Pelly and James O'Hara and endorsed by Senator Patrick McNamara, chairman of the Senate Committee on Labor and Public Welfare. The Johnson administration supported the proposal and the Service Contract Act (SCA) was signed into law in October, 1965.

The SCA, officially called the O'Hara-McNamara Services Act, covers all contracts with the Federal Government in excess of $2,500 whose primary purpose is to provide services to the Government. At the time of enactment, employees typically covered by the SCA were blue collar workers, semiskilled or unskilled performing manual work or craft work.[31] Types of service contracts covered by the Act were varied and include laundry and drycleaning, custodial and janitorial, guard service, packing and crating, food service, and miscellaneous housekeeping services.[32]

PROBLEMS WITH THE ACT

Throughout its 30 year history, the Service Contract Act has been plagued with problems. "Within eight months of adoption, the Labor Department's Wage and Hour Administration proposed to the Congress that some original provisions of the Act be amended because they were already 'unnecessary and outdated." [33]

As a result of difficulties with the administration of the SCA, hearings in 1972 revealed the Department of Labor [DOL] had not made wage determinations in more than two-thirds of all service contracts and that contract turnover was frequent.[34] The 1972 amendments to the SCA extended coverage and expanded the Department of Labor's responsibilities and powers.[35]

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[31] U.S. Congress, House Committee on Education and Labor, "Service Contract Act of 1965." H. Rept. 948, 89th Cong., 1st Sess., 1965, p.2.

[32] Ibid.

[33] Burns, Beverly Hall, "The Service Contract Act of 1965: Time to Revise or Repeal," Villanova Law Review 29 (1983-1984): 221.

[34] Ibid.

[35] Act of October 9, 1972, Pub. L. No. 92–473, 3(c), 86 Stat. 789 (codified at 41 U.S.C. 353(c) (1976)). The new provisions included: (1) a mandate that the Department issue wage determinations for all government service contracts subject to the Act as soon as administratively feasible, according to a time schedule specified in the amendments; (2) a requirement that successor contractors pay service employees wages and fringe benefits no lower than those to which the pred-

Continued

By 1976, the SCA continued to have serious administrative and enforcement problems. While DOL's role in making wage determinations had improved, procuring agencies sometimes failed to notify the Department that determinations were needed and were letting contracts without ever asking for the determinations to be made. Second, the definition of a service employee continued to be problematic. In a judicial decision, the U.S. District Court for the Middle District of Florida[36] found that Congress intended for the act to be limited in its coverage to blue-collar workers doing jobs similar to wage board classifications issued for Federal service. A similar issue involving classification had arisen in a 1974 case, in which the U.S. District Court for Delaware[37] held that keypunch operators were not service employees according to the meaning of the SCA.

Responding to the Federal court rulings, the 1976 amendments expanded the definition of service employees to include anyone working on a Government service contract other than a bona fide executive, administrative or professional employee. The amendments reiterated that services include any operations, other than those specifically exempted in the original Act, that do not result in a physical product.

THE NEED FOR CHANGE

Given the troubled history of the Service Contract Act, the committee believes it is time to repeal this law. Nearly 30 years after its enactment, the SCA denies small business the opportunity to compete for Federal contracts, costs taxpayers billions in inflated wages, and has significant administration problems, with the inability to make accurate wage determinations from available data the most serious.[38] As noted by Attorney Beverly Hall Burns during subcommittee testimony:

> The purpose for which the law was adopted—and the application of it today—bear little resemblance to each other. In 1965, when Jim O'Hara and Robert McNamara sponsored the act, it was with the laudable purpose of preventing the exploitation of the most marginal workers in America—the service employees who did laundry, fixed meals and cleaned up governmental facilities. Within 15 years of its adoption, the act was being applied to university researchers and high technology specialists as well, and even today, many of the workers thought protected by the act—those with specialized training and skill in hazardous waste cleanup for example—are actually in high demand. They don't need the protection of the act, so in a very real

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ecessor contractor committed by a collective bargaining agreement; (3) multi-year contracts of up to five years if approved by the Secretary of Labor and, if wages and fringe benefits were adjusted every two years; and (4) a provision to require that in establishing prevailing rates, due consideration be given to the federal wage board rate applicable for similar work under civil service regulations.

[36] *Federal Elec. Co.* v. *Dunlop*, 419 F.Supp. 221, 225 (M.D. Fla. 1976).

[37] *Descomp, Inc.* v. *Sampson*, 377 F.Supp. 254 (D.Del. 1974).

[38] The Honorable Harris Fawell, meeting with House Economic and Educational Opportunities Committee Staff, Washington, D.C., June 1995.

way, the dollars spent in its enforcement are wasted dollars.[39]

Also, the General Accounting Office [GAO] issued 23 reports prior to 1983 in which specific coverage, enforcement, or wage determination issues involving the SCA were discussed.[40] The GAO capped its criticism of the SCA in a general oversight report of January 31, 1983 by stating "GAO believes that Congress should consider repealing the Service Contract Act."[41] Reasons for repeal include:

Inherent problems exist in its administration.

Wage rates and fringe benefits set under it are generally inflationary to the Government.

Accurate determinations of prevailing wage rates and fringe benefits cannot be made using existing data sources.

The data needed to accurately determine prevailing wage rates and fringe benefits would be very costly to develop.

The Fair Labor Standards Act and administrative procedures implemented through the Federal procurement process could provide a measure of wage and benefit protection for employees the act now covers.[42]

The GAO report concluded that "for Labor to administer the act in a manner that would ensure accurate and equitable service wage determinations would be impractical and very costly and that the most logical alternative is to repeal the act."[43]

The President's Private Sector Survey of Cost Controls, known as the Grace Commission Report, also issued in 1983, conducted an exhaustive study of the law, including review of all prior investigations and an independent analysis of the Labor Department's procedures and administration. It found similar grounds for repeal.[44]

As has frequently been the case, past reforms have exacerbated the problems with the act, expanded coverage, and led to further waste and abuse. As this committee attempts to respond to the call of the American people to streamline Government and make it work more effectively, repealing the Service Contract Act is a needed first step and will lead to a more efficient, responsible, and frugal Government.

This committee believes that the Service Contract Act should be repealed. It specifically adopts the rationale of Representative Harris Fawell, the sponsor of repeal legislation, that the Service Contract Act "like the Davis-Bacon Act, artificially increases the cost of Federal Government service contracts and imposes burdensome paperwork requirements on contractors in order to prove compliance with the law. The SCA also presents a number of pragmatic problems which undermine the effective administration of the

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[39] U.S. Congress, House Subcommittee on Workforce Protections, "Davis-Bacon and the Service Contract Acts," 104th Cong., 1st Sess., 1995.

[40] Congressional Research Service, "The Service Contract Act of 1965," (Washington, D.C.: Library of Congress, [1987]), p. 16.

[41] U.S. Congress, General Accounting Office, "The Congress Should Consider Repeal of The Service Contract Act," HRD–83–4, Office, 1983), p. i.

[42] Ibid.

[43] Ibid., p. v.

[44] Grace, Peter, "President's Private Sector Survey on Cost Control," Report on the Department of Labor, August 31, 1995.

act."[45] Specifically, the SCA applies to highly skilled or college-educated workers who do not need or require regulation by the act.

TAXPAYER SAVINGS

In addition to the failure of the policy underlining the SCA, discussed more fully below, the committee supports repeal because it yields taxpayer savings. The SCA inflates the cost of Federal Government contracts, causing the Federal Government to waste millions of dollars per year by paying more for services such as computer programming, travel services, building security, information services, grounds upkeep, and technical services than would be necessary if competitive bidding occurred. According to the Congressional Budget Office [CBO] repeal of the SCA will save at least $3.168 billion over 5 years and $4.585 billion over 7 years.

PREVAILING WAGE REQUIREMENT IS INHERENTLY DEFECTIVE AND DOES NOT REFLECT THE MARKETPLACE

The prevailing wage concept requires the Government to determine wage and benefits for service contracts in excess of $2,500, covering virtually all Federal contracts for services. Under the SCA, the Department of Labor determines prevailing wages in accordance with the prevailing rates for employees in the locality where the work will be performed. The Department of Labor wage determination process has been criticized because frequently the wage rates and benefits mandated by the Government have very little relationship with real-world prevailing wage rates and benefits. Often, the mandated wage rates and benefits are much higher than would be paid under normal market conditions. As noted by the National Council of Chain Restaurants,

> In determining the prevailing rate, which is the minimum starting wage, the DOL uses the median wage of what it believes to be comparable workers, and establishes that as the minimum rate at which employees working at the subject establishment must be paid. Because the DOL uses the median prevailing wage as the minimum rate under the SCA, the wages that must be paid to employees working at the retail operation located on the military base are substantially higher than what is paid to employees performing the same work at nearby establishments located off the military base.[46]

The Society of Travel Agents in Government [STAG] representing travel agencies and others involved in the $20 billion Government travel market, further illustrates inherent difficulties with the prevailing wage concept.

> First, since small business employers must pay artificially high wages, fewer employees can be hired. Second, since the pay of the employees working on Government contracts drains the employer's resources, the fringe bene-

[45] The Honorable Harris Fawell, Statement to the House of Representatives to repeal the O'Hara-McNamara Service Contract Act, Washington, D.C., January 5, 1995.

[46] U.S., Congress, House, Committee on Economic and Educational Opportunities, Davis-Bacon and the Service Contract Acts, Serial No. 104-21, 104th Cong., 1st Sess., 1995, p. 319.

> fits unique to this industry often cannot be offered. Third, while travel agencies are forced to pay the high wages to employees working on Government accounts, they cannot afford to do so to their other employees. This results in a disparity of wages within the travel agency which is not based on any difference in skill or experience, which leads to animosity among employees and a poorer working environment, and less interest in competitively bidding Government contracts.[47]

As this example illustrates, the Service Contract Act results in problems for employers and employees and the taxpayer ends up footing the bill.[48]

In addition to paying prevailing wages, the SCA requires the payment of prevailing fringe benefits. A contractor may satisfy this requirement by providing any equivalent combination of benefits or by making equivalent payments in cash. Frank Bazler testifying on behalf of Hobart Corp., one of the leading manufacturers and marketers of commercial food preparation, cooking, refrigeration and warewashing equipment, testified about problems in this area:

> Many Hobart service offices have only two or three service technicians. These may include senior technicians as well as new hires in training. Obviously the wages and vacations provided to these employees are widely varied. If a service office has a service contract with the Federal Government and its senior technician is ill or on vacation, it may be necessary to provide service with a younger and newer technician who may meet the wage requirements but not the vacation requirements, thus causing a violation unless separate compensating wages are calculated and paid. * * * (A recent example of this was a requirement under SCA in the New England area that the service technician be given 4 weeks of vacation. Hobart employees do not receive 4 weeks of vacation until after they have been with the company for 15 years. The end result of this unreasonable requirement was that Hobart elected not to enter into the service contract.)[49]

The preceding example illustrates a major change over time, in the focus of the law. Consider that Department of Labor wage determinations in the Washington, DC metropolitan area range from $16 to $27 an hour. These pay rates cover engineers, nurses, technicians, and photographers. A computer system analyst III earns $27.66 an hour and an engineering technician VI earns $22.26 an hour. These are not the typical low-wage workers the act was designed to cover.

The committee believes one of the basic tenets of labor- management relations is the opportunity for employers and employees to negotiate with each other based on merit, skills, and experience. Under the SCA, as illustrated by these examples, the Government mandates a difficult bureaucratic procedure resulting in govern-

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[47] Ibid., p. 328.
[48] Ibid., p. 329.
[49] Ibid., p. 331.

ment control over wages and benefits and even job descriptions when in reality market principles offer the best solution.

REPEAL OF THE SCA RESULTS IN NEW JOB OPPORTUNITIES AND COMPETITION

The committee believes repeal of the SCA would allow the market to determine wages, ensuring competition for service contracts as well as lowering Government interference in private business activities. In addition, repeal of the SCA would enable more businesses to compete for Federal contracts, creating new job opportunities.

The Association of Independent Scientific Engineering and Testing Firms, represents 400 companies, a majority of which are small businesses. These firms perform scientific testing and engineering services for the $8 billion testing laboratory market. The scope of the testing services include: construction materials, geological, pharmaceutics, environmental, food, and analytical chemistry. In a letter to Representative Harris Fawell, this association stated:

> * * a [company] with approximately 200 persons working in their Federal programs division estimates they would incur upwards of $200,000 in company-wide incremental costs if the firm took on work with SCA requirements. Not included in this estimate are the costs for additional benefits changes that would be needed for compliance. Industry profitability is very low for analytical laboratories and SCA compliance costs cannot be absorbed easily. Thus, this firm is caught between foregoing much needed revenues or accepting SCA projects that will reduce or eliminate profits.[50]

Hobart Corp. testified that it does not bid on SCA contracts because of the redtape imposed by the requirements of the act. This deprives the Government of the highest quality services.[51]

Finally, Beverly Hall Burns provided the following example during congressional testimony.

> Consider how a DOL wage determination can affect the ability of a small employer—a minority or women-owned company, for example—to make a competitive bid: In one GAO study, the bulk of Labor Department wage determinations had relied for data on BLS surveys of businesses well over 50 employees. Indeed, in larger metro areas, the BLS generally excluded from its data base employers of fewer than 100 employees. Nonetheless, requests for Service Contract Act wage determinations have generally indicated a need for fewer than 50 employees. Reliable studies show that larger organizations are likely to pay higher wages than small companies. To base a wage determination on the wage paid by big employers is to ef-

[50] Letter of ACIL to the Honorable Harris Fawell, 4 April 1995, Anthony Pagliaro Papers, Washington, D.C.

[51] U.S., Congress, House, Committee on Economic and Educational Opportunities, Davis-Bacon and the Service Contract Act, Serial No. 104–21, 104th Cong., 1st Sess., 1995, H.R. 246, p. 308.

> fectively bar smaller companies from the opportunity to compete and win Federal contracts for services.[52]

Whether or not, the SCA protects the most vulnerable service workers, it has the clear effect of hindering the most vulnerable of companies—small businesses. A policy that seeks to protect workers, but deprives them of potential job opportunities is a failure.

CURRENT LABOR LAWS OFFER SERVICE CONTRACT WORKERS MANY PROTECTIONS

In 1965, when the law was adopted, its stated purpose was to prevent the exploitation of the most marginal workers—service employees who did laundry, fixed meals or cleaned government buildings. At the time of enactment, service employees were not covered by the Fair Labor Standards Act [FLSA]. Service employees gained protection under the FLSA—minimum wage and overtime protection—in 1966. In addition, these employees are currently covered by a host of labor laws including: the Contract Work Hours and Safety Standards Act of 1962—overtime for any hours worked over 8 per day; Social Security—unemployment compensation; the Wagner-Peyser Acts—employment service; the Occupational Safety and Health Act of 1970—safety and health conditions in the workplace; and the National Labor Relations Act of 1935—right to organize and collectively bargain.

THE SCA INCLUDES MANY BURDENSOME REQUIREMENTS

The burdens of compliance with the regulatory scheme under the SCA discourages qualified businesses from competing for Federal contracts and deprives the Federal Government of the broadest range of suppliers, thus reducing competition and increasing costs to the taxpayer. Consider, for example, that SCA job classifications are being misapplied to Ph.D.-educated individuals performing sensitive scientific analyses.[53] This is inappropriate because many scientific and engineering jobs are not routine service positions. Another company involved in this testing industry notes "no firm is going to pay $10.95 an hour—the wage determination set for entry level positions located in a rural southern State local for a perfectly trainable high-school educated person when a recent college graduate in chemistry can be hired for the same rate."[54]

An explanation provided by Hobart Corp. indicated some of the burdensome recordkeeping requirements under the SCA. "The recordkeeping [requirements mean] * * * additional work which must be performed under the Service Contract Act. This means setting up a separate file for each service technician and other employees who work under the Service Contract Act. This takes a clerical employee out of that employee's regular routine to prepare the separate file. The file must be maintained for a minimum of three years. This entire procedure is more extensive than the procedure

[52] Ibid., p. 296.
[53] Letter of ACIL to the Honorable Harris Fawell, April 4, 1995, Anthony Pagliaro Papers, Washington, DC.
[54] Ibid

used for service technicians and other employees who are working on 98 percent of the service work in the office."[55]

The difficulties experienced by Mr. Bazler's company are compounded when applied to small businesses which do not have the administrative support or resources to satisfy these tremendous compliance burdens of the law. Again, testing laboratories indicated that "[t]he Act's administrative requirements are very costly. Small businesses and small-disadvantaged professional services firms particularly shun Federal work containing SCA requirements. For example, one small, southwestern based [company] generates 50 percent of its revenues by providing environmental and geotechnical engineering services for the Department of Energy [DOE]. However, this company will not bid on DOE environmental and geotechnical contracts stipulating SCA requirements because these contracts become complicated and burdensome to administer."[56]

In conclusion, the committee believes that the prevailing wage concept underlying the SCA is flawed, incapable of accurate administration, and is burdensome to small business and taxpayers. Wage surveys, when they are conducted, skew results heavily in favor of higher than market wage rates. These inflated rates, coupled with the administrative and practical burdens, discourage bidding on Federal work by many qualified businesses. This restraint on competition hinders job growth, deprives the Federal Government of the highest quality of services and raises costs.

Repeated efforts to reform the SCA have proved that the law is fatally flawed and, for all of the foregoing reasons, must be repealed.

PROVISIONS RELATING TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Background and views

The committee has become aware of the problems created under current law Federal pension regulations for various pension plan participants who have requested the payment of their pension benefits only to experience what they consider to be unnecessary delays. Under ERISA section 205, benefit payments from a pension plan subject to the qualified joint and survivor rules may be paid in a form other than a qualified joint and survivor annuity [QJSA] or a qualified preretirement survivor annuity [QPSA], if the participant waives the QJSA or QPSA and certain notice, election, and spousal consent requirements are satisfied. Regulations relating to section 205 provide that in the case of a QJSA, a written explanation must generally be provided to participants no less than 30 days and no more than 90 days before the annuity starting date. The participant's election to waive the QJSA and the spousal consent must be made no more than 90 days before the annuity starting date. Thus, even if a participant elects to waive the QJSA and the spouse has consented to the distribution, the distribution from

[55] U.S. Congress, House, Committee on Economic and Educational Opportunities, Davis-Bacon and the Service Contract Acts, H. Rept. 104–21, 104th Cong., 1st sess., 1995, p. 307.

[56] Letter of the ACIL to the Honorable Harris Fawell, April 4, 1995, Anthony Pagliaro Papers, Washington, DC.

the plan cannot be made until 30 days after the written explanation has been provided to the participant.

This 30-day delay in the distribution of benefits may be a hardship to participants and surviving spouses. Current technology should enable pension plans to distribute requested benefits on a more timely basis to participants and their beneficiaries.

The committee considers the current regulations related to the 30-day waiting period for pension distributions to be unnecessarily restrictive and in some cases harmful to plan participants and surviving spouses facing hardship. Therefore, subtitle C provides appropriate relief by allowing the 30-day waiting period to be waived if so elected by the plan participant and, if applicable, the participant's spouse.

SECTION BY SECTION

Section 4000 provides the table of contents.

Section 4001(a) provides that the short title of this subtitle is the Higher Education Program Efficiency Act of 1995.

Section 4001(b) establishes an effective date of January 1, 1996, unless otherwise provided.

Section 4002(a) terminates (1) the authority for the Direct Loan Program on June 30, 1996; (2) the authority of the Secretary to lend funds after June 30, 1996 and prohibits the payment of fees to institutions as of January 1, 1996; and (3) the authority of the Secretary to enter into participation agreements with institutions.

Section 4002(b) rewrites the current section 458 of the Higher Education Act. The amount of administrative funds available for payment of indirect administrative expenses pursuant to section 458 is reduced to $110 million dollars for fiscal year 1996 with $40 million dollars allotted for payment of administrative costs to guaranty agencies for October, November, and December of 1995, and $70 million dollars in each of the fiscal years 1997 through 2002. Direct administrative expenses and indirect administrative expenses are defined for purposes of this section. Expenditures for indirect administrative expenses and loan servicing for loans under part D are limited to 30 percent of funds available.

Section 4002(c)(1) strikes language which refers to the transition to direct lending and corrects an incorrect citation.

Section 4002(c)(2) strikes the paragraph which gives the Secretary the authority to recall loans from guaranty agencies in order to proceed with the orderly transition to direct lending. This provision now mirrors the pre-1993 reconciliation language and requires the Secretary to consult with a guaranty agency about its collection efforts prior to recalling loans.

Section 4002(c)(3) strikes the Secretary's ability to terminate a guaranty agency's agreement in order to ensure an orderly transition to the Direct Loan Program.

Section 4002(c)(4) strikes the Secretary's authority to take any action necessary in order to ensure an orderly transition to the Direct Loan Program.

Section 4002(c)(5) strikes the reporting requirement with respect to the progress of the transition to direct lending and simply requires a report on the integrity and administration of the programs under this part and part D.

Section 4002(c)(6) strikes references to the transition from loan programs under this title to direct student loan programs under part D.

Section 4002(c)(7) strikes reference to transition.

Section 4002(c)(8) strikes all references to during the transition.

Section 4002(c)(9) replace transition selection criteria with institution selection criteria.

Section 4002(c)(10) strikes the requirement for the Secretary to publish regulations for institutional approval for the Direct Loan Program for academic years after 1995–96.

Section 4002(c)(11) strikes the Secretary's authority to contract for services necessary for the orderly transition to the Direct Loan Program.

Section 4002(d)(1) allows Direct Loan Program borrowers to obtain consolidation loans under part B.

Section 4002(d)(2) strikes the provision allowing a part B borrower to obtain a Federal direct consolidation loan.

Section 4003 eliminates the grace period interest subsidy for loans made on or after January 1, 1996 and allows the borrower to pay the interest monthly or quarterly or have it added to the principal upon commencement of repayment.

Section 4004(a) establishes annual borrowing limits for borrowers of PLUS loans at $15,000 per student in any academic year.

Section 4004(b) requires holders of PLUS Program loans to pay a rebate to the Secretary equal to 0.80 percent of the outstanding principal balance of loans held on June 30 and December 31, payable within 60 days after such date.

Section 4004(c) provides for an increase in PLUS Program loan interest rates from the 52-week Treasury bill plus 3.1 to the 52-week Treasury bill plus 4 capped at 11 percent, for loans with a first disbursement after January 1, 1996.

Section 4005 requires a lender or holder which purchases or takes assignment of a loan from another lender or holder to pay the Secretary a transfer fee equal to 0.20 percent of the principal of the loan.

Section 4006 amends section 428(f) of the Higher Education Act to require originating lenders to pay to the guaranty agency which guarantees a loan, a fee equal to 0.70 percent of the principal amount of the loan for loans having a first disbursement after January 1, 1996. These funds shall be used by guaranty agencies for administrative costs of collections, preclaim assistance, monitoring enrollment and other program costs. No part of these payments may be assessed or collected directly or indirectly from the borrower.

Section 4007(a) clarifies that non-Federal funds maintained in a guaranty agency's reserve fund are the property of the guaranty agency. In addition, the Secretary is not authorized to use returned funds for the operation of the Direct Loan Program. Funds recovered under this section shall be deposited with the Treasury for purposes of reducing the Federal debt. Guaranty agencies are required to maintain a minimum reserve level equal to .9 percent of outstanding loans guaranteed.

Section 4007(b) allows for one form to be used for purposes of determining student need and eligibility, including assistance under

part B. Electronic forms may be used subject to the approval of the Secretary and no fee may be charged in connection with its use.

Section 4007(c) expands lender eligibility.

Section 4007(d) makes the following program changes: lender insurance is reduced to 95 percent; guaranty agency reinsurance percentages are reduced to 96/86/76 and payment for supplemental preclaim activities is eliminated. Lender of last resort provisions are modified to require applications to be processed within 15 days and borrowers are required to only obtain one lender rejection in order to establish eligibility for lender of last resort.

Section 4007(e) reduced the reinsurance and insurance for parties qualified as exceptional performers to 95 percent.

Section 4007(f) reduces loan fees from lenders paid to the Secretary to 0.30 percent of the principal loan amount for loans with a first disbursement made on or after January 1, 1996.

Section 4007(g) provides an exemption from certain audit requirements for lenders which make or hold less than $5 million in student loans in any fiscal year.

Section 4008 requires guaranty agencies to use not less than 50 percent of their reserve funds for the purpose of purchasing and holding loans for which a claim for insurance is filed after the date of enactment of this subsection. This requirement shall not be applicable under certain conditions which are: (A) the dollar value of insurance claims does not amount to 50 percent; (B) State law prohibits such use; or (C) a guaranty agency's ability to pay program expenses would be compromised.

Section 4009(a) establishes an extended holding period during which time guaranty agencies are to attempt to establish repayment with a borrower who has defaulted in order for the loan to be purchased by an eligible lender.

Section 4009(b) creates a new section which establishes new deadlines for filing for reinsurance from the Secretary when a loan goes into default. Claims for reimbursement from the Secretary may not be filed prior to 180 days after the guaranty agency has paid the lender. Claims for reinsurance must be filed by 225 days. Guaranty agencies do not have to wait 180 days to file for reinsurance if (1) they have already used 50 percent or more of their reserves to purchase and hold loans; (2) they certify that diligent efforts to locate the borrower have been attempted but unsuccessful; or (3) the borrower is unlikely to possess the financial resources to begin repaying prior to 180 days.

Section 4009(c) provides that during the 180 days after purchasing the loan from a lender, a guaranty agency shall attempt to bring the loan into repayment so that no claim for reimbursement by the Secretary will be necessary.

Section 4009(d) prohibits the Secretary from regulating collection activities on loans purchased by guaranty agencies for which reinsurance has not been paid.

Section 4010—College Construction Loan Insurance Association.

Section 4010(a) provides for the repeal of the existing part D of title VII of the Higher Education Act which originally created the College Construction Loan Insurance Association.

Section 4010(b)(1) provides that the Corporation is not an agency, instrumentality or establishment of the U.S. Government, nor

a Government corporation or Government controlled corporation. In addition, no action shall be allowable against the United States based on actions of the Corporation.

Section 4010(b)(2) states that the Corporation may engage in any business or activities for which corporations may be organized under the laws of any State or the District of Columbia.

Section 4010(b)(3) provides that no stock of the Corporation may be sold or issued to an agency, instrumentality, or establishment of the U.S. Government, to a Government Corporation or to a Government sponsored enterprise. Section 4010(b)(3) further provides that the Student Loan Marketing Association shall not own any stock of the Corporation, except that it may retain the stock it owns on the date of enactment, that the Student Loan Marketing Association shall not control the operation of the Corporation except that it may continue to participate in the election of directors as a shareholder and that it may continue to appoint directors under Section 754 of the Higher Education Act of 1965 as long as that section is in effect, and that the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation. Notwithstanding the prohibitions in this subsection, the United States may pursue any remedy against holders of the Corporation's stock to which it would be otherwise entitled.

Section 4010(c)(1) requires the Corporation to disclose that it is not a Government-sponsored enterprise and that its obligations are not guaranteed by the full faith and credit of the United States in all securities offerings and contracts for insurance, guarantee, or reinsurance of obligations for 5 years after date of enactment.

Section 4010(c)(2) requires the Corporation to amend its charter to conform to this act.

Section 4010(c)(3) prohibits the Corporation from using the term "College Construction Loan Insurance Association" in its name.

Section 4010(c)(4) requires the Corporation to amend its articles of incorporation to reflect as one of its purposes, to guarantee, insure and reinsure bonds, leases and other evidences of debt of educational institutions, including historically black colleges and universities which are ranked in the lower investment grade category.

Section 4010(c)(5)(A) retains section 754 of the Higher Education Act to remain in effect until all the stock of the Secretary of Education has been sold. This continues the right of the Secretary of Education and the Secretary of Treasury to appoint directors to the Corporation's board.

Section 4010(c)(5)(B) requires the Corporation to report to the Secretary of Education for 2 years after the sale of the stock with respect to financing activities of the Corporation in financing education facilities projects.

Section 4010(d)(1) requires the Treasury to sell the stock of the Corporation owned by the Department of Education not later than 6 months after enactment.

Section 4010(d)(2) requires the Corporation, within the time frame set forth in paragraph (1), to purchase the stock if the Secretary of the Treasury is otherwise unable to sell. The price is to be determined by the Secretary of the Treasury and acceptable to the Corporation based on independent appraisal by a nationally recognized financial firm, except that such price shall not exceed

the value of the Secretary's stock as determined by the Congressional Budget Office in House Report 104–153.

Section 4010(e) requires the Corporation to assist the Secretary of the Treasury and the Secretary of Education to facilitate the sale of the stock.

Section 4010(f) defines the term "Corporation" to mean the Corporation established under the provision of law repealed by subsection (a).

Section 4011—Eligible Institution.

Section 4011(a) amends the Higher Education Act by requiring that, for the purposes of determining whether an institution meets the requirements of clause (6) (commonly referred to as the 85/15 rule), the Secretary of Education shall count revenues from programs of education or training that do not meet the definition of an eligible program in subsection (e), but are provided on a contractual basis under Federal, State, or local training programs, or to business or industry. Section 4011(a) further requires that the Secretary shall not consider the financial information of any institution for a fiscal year which began on or before April 30, 1994.

Section 4011(b) makes this provision effective beginning July 1, 1994.

Section 4012 extends Sections 424(a), 428(a)(5) and 428C(e) through 2002.

Section 4101(a) repeals the Davis-Bacon Act.

Section 4101(b) states any reference in any other law to a Davis-Bacon wage requirement shall be null and void 45 days after the date of enactment of this act.

Section 4101(c) states these amendments shall take effect 45 days after the date of enactment, but shall not affect any contract in existence prior to 45 days after enactment or made pursuant to invitation for bids prior to 45 days after the enactment of this act.

Section 4102(a) repeals the Service Contract Act of 1965.

Section 4102(b) states that the amendment made by this act shall not apply to contracts entered into prior to the 45th day after the date of enactment of this act.

Section 4201 permits for purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 [ERISA], the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse. The provision is to apply to plan years beginning after December 31, 1995.

CHANGES IN EXISTING LAW MADE BY TITLE IV OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HIGHER EDUCATION ACT OF 1965

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TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

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PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

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SEC. 422. ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

(a) PURPOSE OF AND AUTHORITY FOR ADVANCES TO RESERVE FUNDS.—

(1) * * *

(2) MATCHING REQUIREMENT.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term ''unencumbered non-Federal portion'' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) * * *

* * * * * * *

[Except as provided in section 428(c)(10)(E) or (F), such unencumbered**]** *Such* non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

* * * * * * *

(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

(1) * * *

* * * * * * *

(7) EMERGENCY ADVANCES.—The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort **[**during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title**]**; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with **[**section 428(c)(10)(F)(v)**]** *section 428(c)(9)(F)(v)*, in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

* * * * * * *

(g) PRESERVATION AND RECOVERY OF GUARANTY AGENCY RESERVES.—

(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agen-

cies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part [or the program authorized by part D of this title]. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part [or the program authorized by part D of this title], or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) * * *

* * * * * * *

(D) any such determination under subparagraph [(A) or (B)] *(A), (B), or (C)* shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

* * * * * * *

[(4) AVAILABILITY OF FUNDS.—Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 458 of this Act.]

(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.

(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender after the date of enactment of this subsection. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds; or

(B) such use is prohibited by State law; or

(C) such use will compromise the ability of the guaranty agency to pay program expenses.

* * * * * * *

SEC. 424. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

(a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, [1998] *2002*. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 2002.

* * * * * * *

SEC. 427A. APPLICABLE INTEREST RATES.

(a) * * *

* * * * * * *

(c) RATES FOR SUPPLEMENTAL LOANS FOR STUDENTS AND LOANS FOR PARENTS.—

(1) * * *

* * * * * * *

(4) AVAILABILITY OF VARIABLE RATES.—(A) * * *

* * * * * * *

(F) Notwithstanding subparagraphs (A), (D), and (E), for any loan made pursuant to section 428B for which the first disbursement is made on or after January 1, 1996—

(i) subparagraph (B) shall be applied by substituting "4.0" for "3.25"; and

(ii) the interest rate shall not exceed 11 percent.

* * * * * * *

(h) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1998.—

(1) * * *

[(2) INTEREST RATES FOR NEW PLUS LOANS AFTER JULY 1, 1998.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g), with respect to any loan made under section 428B for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

[(A) by substituting "2.1 percent" for "1.0 percent" in subparagraph (B); and

[(B) by substituting "9.0 percent" for "8.25 percent" in the matter following such subparagraph.]

[(3)] *(2)* CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such

rate in the Federal Register as soon as practicable after the date of determination.

* * * * * * *

SEC. 428. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) FEDERAL INTEREST SUBSIDIES.—

(1) * * *

* * * * * * *

(3) AMOUNT OF INTEREST SUBSIDY.—(A) * * *

* * * * * * *

(C) Notwithstanding subparagraph (A), no portion of the interest which accrues after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) and prior to the beginning of the repayment period of the loan shall be paid by the Secretary under this subsection on any loan made on or after January 1, 1996. Interest on the unpaid principal amount of any such loan during the interval described in the preceding sentence shall, at the option of the borrower—

(i) be paid monthly or quarterly, or

(ii) be added by the lender to the principal amount of the loan at the commencement of the repayment period.

* * * * * * *

(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, [1998] *2002*, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, [2002] *2006*.

* * * * * * *

(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) * * *

* * * * * * *

(G) insures not less than [98] *95* percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid prin-

cipal of loans made with funds advanced pursuant to section 428(j) or 439(q);

* * * * * * *

(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) *in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year,* for (I) a compliance audit of each *such* lender at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to *such* a lender that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) [if the lender] *if such lender* submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

* * * * * * *

(X) provides information to the Secretary in accordance with [section 428(c)(10)] *section 428(c)(9)* and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations.

(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

(A) * * *

* * * * * * *

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left

the eligible institution, notify the borrower of the date on which the repayment period begins; [and]

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) * * *

* * * * * * *

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(7) or is in repayment status[.]*; and*

(G) provide that, if a lender or holder, on or after January 1, 1996, sells, transfers, or assigns a loan under this part, then the transferee shall pay to the Secretary a transfer fee in an amount equal to 0.20 percent of the principal of the loan, which transfer fee shall be deposited into the insurance fund established in section 431, except that the provisions of this subparagraph shall not apply to any such sale, transfer, or assignment by a lender or holder to such lender's or holder's affiliate or pursuant to a merger or other consolidation transaction.

* * * * * * *

(c) GUARANTY AGREEMENTS FOR REIMBURSING LOSSES.—

(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall, be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to [98] *96* percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. [A guaranty agency] *Except as provided in section 428K, a guaranty agency* shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the

amount to be paid as reimbursement under this subsection for such excess shall be equal to [88] *86* percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to [78] *76* percent of the amount of such excess.

* * * * * * *

(8) ASSIGNMENT TO PROTECT FEDERAL FISCAL INTEREST.—(A) If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

[(B) An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.]

(B) Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such guaranty agency has made adequate collection efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.

(9) GUARANTY AGENCY RESERVE LEVEL.—(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain a current minimum reserve level of at least .5 percent of the total attributable amount of all outstanding loans guaranteed by such agency for the fiscal year of the agency that begins in 1993. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency. The minimum reserve level shall increase to—

(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994; *and*

(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995[; and].

[(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996.]

* * * * * * *

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to [80] *76* percent pursuant to section 428(c)(1)(B)(ii), or (iii) the Sec-

retary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require, as appropriate, the guaranty agency to submit and implement a management plan acceptable to the Secretary within 30 working days of any such event.

* * * * * * *

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) * * *

* * * * * * *

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest; *or*

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers**[**; or**]**.

[(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.**]**

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) * * *

* * * * * * *

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, *and* to avoid disruption of the student loan program**[**, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.**]**.

* * * * * * *

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing *on the record*.

* * * * * * *

(K) The Secretary, within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system and **[**the progress of the transition from the loan programs under this

part to] *the integrity and administration of* the direct student loan programs under part D of this title.

* * * * * * *

(e) PAYMENTS FOR LENDER REFERRAL SERVICES.—

(1) IN GENERAL; AGREEMENTS WITH GUARANTY AGENCIES.—(A) The Secretary shall make payments in accordance with this paragraph to a guaranty agency with which the Secretary has an agreement under subparagraph (B) which provides a lender referral service for students who meet the requirements of paragraph (2).

(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers [during the transition from the loan programs under this part to the direct student loan programs under part D of this title]. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

* * * * * * *

(3) AMOUNT OF PAYMENT.—From funds available for costs [of transition] under section 458 of the Act, the amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

* * * * * * *

[(f) PAYMENTS OF CERTAIN COSTS.—

[(1) PAYMENTS BASED ON INSURANCE PROGRAM AGREEMENT.—(A) For a fiscal year prior to fiscal year 1994, the Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

[(i) the administrative cost of promotion of eligible lender participation;

[(ii) the administrative costs of collection of loans;

[(iii) the administrative costs of preclaims assistance for default prevention;

[(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

[(v) other such costs related to the student loan insurance program subject to such agreement.

[(B) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon

which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall, be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

[(C) No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

[(2) APPLICATIONS FOR PAYMENTS.—No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

[(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1);

[(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

[(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

[(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

[(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require, to carry out the provisions of this subsection.]

(f) PAYMENTS OF CERTAIN COSTS.—

(1) PAYMENTS FROM LENDERS.—With respect to any loan under this part for which the first disbursement is made on or after January 1, 1996, the originating lender shall remit to the guaranty agency which guarantees the loan, a fee equal to 0.70 percent of the principal amount of the loan.

(2) USE OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be used for the purposes of—

(A) the administrative costs of collections of loans;

(B) the administrative costs of preclaim assistance and other predefault activities;

(C) the administrative costs of monitoring the enrollment and repayment status of students; and

(D) other such costs related to the student loan insurance program.

(3) TIMING OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be made at the time insurance premiums on such loans are paid to the guaranty agency.

(4) PROHIBITION ON PASS-THROUGH.—No part of any payments required by this section shall be assessed or collected, directly or indirectly, from any borrower under this part.

* * * * * * *

(j) LENDERS-OF-LAST-RESORT.—

(1) * * *

(2) RULES AND OPERATING PROCEDURES.—The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed to facilitate application by students and ensure a response within [60] *15* days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this title in order to receive a loan under this part from an eligible lender, nor be required to receive more than [two rejections] *one rejection* from eligible lenders in order to obtain a loan under this subsection;

* * * * * * *

(3) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES [DURING TRANSITION TO DIRECT LENDING].—(A) In order to ensure the availability of loan capital [during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title,], the Secretary is authorized to provide a guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

* * * * * * *

(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

[(1) ASSISTANCE REQUIRED.—]Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I)) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C)) with respect to each loan covered by such agreement.

[(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C)) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which

a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan.]

* * * * * * *

SEC. 428B. FEDERAL PLUS LOANS.

(a) * * *

[(b) LIMITATION BASED ON NEED.—]

(b) ANNUAL LIMITS.—

(1) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).

(2) DOLLAR LIMITATION.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulations of the Secretary) is $15,000.

(3) LIMITATION COMPUTED ON BASIS OF ACTUAL PAYMENTS.—The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

* * * * * * *

(f) INTEREST REBATE.—

(1) REBATE REQUIRED.—Each holder of a loan under this section made on or after the date of enactment of the Omnibus Budget Reconciliation Act of 1995, shall pay, on June 30 and December 31 of each year, to the Secretary a rebate of subsidies in an amount equal to 0.8 percent of the outstanding principal balance of loans held on such date. Payment of such rebate shall be made not later than 60 days after each such date.

(2) DEPOSIT OF REBATES.—The Secretary shall deposit all fees collected pursuant to paragraph (1) into the insurance fund established in section 431.

SEC. 428C. FEDERAL CONSOLIDATION LOANS.

(a) AGREEMENTS WITH ELIGIBLE LENDERS.—

(1) * * *

* * * * * * *

(4) DEFINITION OF ELIGIBLE STUDENT LOANS.—For the purpose of paragraph (1), the term "eligible student loans" means loans—

(A) * * *

* * * * * * *

(C) made under part D of this title;

[(C)] *(D)* made under subpart II of part A of title VII of the Public Health Service Act; or

[(D)] *(E)* made under subpart II of part B of title VIII of the Public Health Service Act.

(b) CONTENTS OF AGREEMENTS, CERTIFICATES OF INSURANCE, AND LOAN NOTES.—

(1) * * *

* * * * * * *

[(5) DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part D of this title or pursuant to any other repayment provision under this section. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.]

* * * * * * *

(e) TERMINATION OF AUTHORITY.—[The authority to make loans under this section expires at the close of September 30, 1998.] *The authority to make loans under this section expires at the close of September 30, 2002.* Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 424(a).

* * * * * * *

SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES.

(a) * * *

(b) PAYMENT TO LENDERS AND SERVICERS.—

(1) [100] *95* PERCENT PAYMENT RULE.—Each guaranty agency shall pay each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a) [100] *95* percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a) has been revoked.

* * * * * * *

SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a student borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance

obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status prior to 180 days after the date the guaranty agency discharges its insurance obligation on the loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payment satisfactory to the guaranty agency during the 180-day period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

(d) REGULATION PROHIBITED.—The Secretary shall not regulate the collection activities of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).

* * * * * * *

SEC. 435. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

As used in this part:

(a) * * *

* * * * * * *

(d) ELIGIBLE LENDER.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (6), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to the enactment of the Higher Education Amendments of 1992, or (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part*; and in determining whether the making or holding of loans to students and parents under this part is the primary consumer credit function of the eligible lender, loans made or held as trustee or in a trust capacity for the benefit of a third party shall not be considered*;

* * * * * * *

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)); **[**and**]**

(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market**[**.**]***; and*

(K) a wholly owned subsidiary of a publicly-held holding company which, as of the date of enactment of this subparagraph, through one or more subsidiaries (i) acts as a finance company, and (ii) participates in the program authorized by this part pursuant to subparagraph (C).

* * * * * * *

SEC. 438. SPECIAL ALLOWANCES.

(a) * * *

* * * * * * *

(d) LOAN FEES FROM LENDERS.—

(1) * * *

[(2) AMOUNT OF LOAN FEES.—With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.**]**

(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1) shall be—

(A) 0.50 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after October 1, 1993, and before January 1, 1996; or

(B) 0.30 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after January 1, 1996.

* * * * * * *

PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

SEC. 451. PROGRAM AUTHORITY.

(a) IN GENERAL.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994 *and ending June 30, 1996*. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

* * * * * * *

SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

(a) * * *

* * * * * * *

(e) TERMINATION OF FUNDING.—The Secretary shall not provide funds under this section for loans for any academic year beginning on or after July 1, 1996. The Secretary shall not pay any fees pursuant to subsection (b) of this section on or after January 1, 1996.

SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

(a) PHASE-IN OF PROGRAM.—

(1) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 454(b) with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994 *and ending before July 1, 1996*. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 456(b) or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan program under this

part, the Secretary shall, in the exercise of the Secretary's discretion, determine the number of institutions with which the Secretary shall enter into agreements under subsections (a) and (b) of section 454 for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:

(A) for academic year 1994–1995, loans made under this part shall represent 5 percent of the new student loan volume for such year; *and*

(B) for academic year 1995–1996, loans made under this part shall represent 40 percent of the new student loan volume for such year**[**;**]**.

[(C) for academic years 1996–1997 and 1997–1998, loans made under this part shall represent 50 percent of the new student loan volume for such years; and

[(D) for the academic year that begins in fiscal year 1998, loans made under this part shall represent 60 percent of the new student loan volume for such year.

[(3) EXCEPTION.—The Secretary may exceed the percentage goals described in subparagraphs (C) or (D) of paragraph (2) if the Secretary determines that a higher percentage is warranted by the number of institutions of higher education that desire to participate in the program under this part and that meet the eligibility requirements for such participation.**]**

[(4)**]** *(3)* NEW STUDENT LOAN VOLUME.—For the purpose of this subsection, the term "new student loan volume" means the estimated sum of all loans (other than consolidation loans) that will be made, insured or guaranteed under this part and part B in the year for which the determination is made. The Secretary shall base the estimate described in the preceding sentence on the most recent program data available.

(c) SELECTION CRITERIA FOR ORIGINATION.—

(1) * * *

(2) **[**TRANSITION**]** *INSTITUTIONAL* SELECTION CRITERIA.—For academic year 1994–1995, the Secretary may approve an institution to originate loans only if such institution—

(A) * * *

* * * * * * *

[(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSITION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 457(a)(2).**]**

* * * * * * *

SEC. 456. CONTRACTS.

(a) * * *

(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into contracts for—

(1) * * *

* * * * * * *

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part; *and*

[(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan program under this part; and]

[(5)] *(4)* such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the [successful operation] *integrity and efficiency* of the program.

* * * * * * *

SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

[(a) IN GENERAL.—Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 422(g) and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $284,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,439,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.]

(a) IN GENERAL.—

(1) DIRECT ADMINISTRATIVE COSTS.—Each fiscal year there shall be available to the Secretary of Education, from funds not otherwise appropriated, funds to be obligated for the subsidy costs of direct administrative costs under this part, subject to subsection (b) of this section.

(2) INDIRECT ADMINISTRATIVE COSTS.—There shall also be available from funds available from funds not otherwise appropriated, funds to be obligated for indirect administrative costs under this part and part B, subject to subsection (c) of this section, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $345,000,000 in fiscal year 1995, $110,000,000 in fiscal year 1996 (of which $40,000,000 shall be available for administrative cost allowances for guaranty agencies for October through December of 1995), and $70,000,000 in each of the fiscal years 1997 through 2002.

(3) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under paragraph (2) shall be reduced by the amount of any unobligated unexpended funds available

to carry out this subsection for any fiscal year prior to fiscal year 1996.

(b) SUBSIDY COSTS.—For purposes of this section, "subsidy cost" means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis.

(c) DIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, "direct administrative expenses" shall consist of the cost of—

(1) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

(2) collection of delinquent loans; and

(3) write-off and closeout of loans.

(d) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, "indirect administrative expenses" shall consist of the cost of—

(1) personnel engaged in developing program regulations, policy, and administrative guidelines;

(2) audits of institutions and contractors;

(3) program reviews; and

(4) other oversight of the program.

(e) LIMITATION ON PART D EXPENDITURES.—For any fiscal year, expenditures for indirect administrative expenses and for loan servicing for loans made pursuant to this part shall not exceed 30 percent of funds available pursuant to paragraph (2) for such fiscal year.

[(b)**]** *(f)* AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

[(c)**]** *(g)* BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

[(d) NOTIFICATION.—In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.**]**

* * * * * * *

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

SEC. 481. DEFINITIONS.

(a) * * *

(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—For the purpose of this section, the term "proprietary institution of higher

education" means a school (1) which provides an eligible program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary pursuant to part H of this title, (5) which has been in existence for at least 2 years, and (6) which has at least 15 percent of its revenues from sources that are not derived from funds provided under this title, as determined in accordance with regulations prescribed by the Secretary *on the basis of a review by the institution's independent auditor using generally accepted accounting principles. For the purposes of clause (6), revenues from sources that are not derived from funds provided under this title include revenues from programs of education or training that do not meet the definition of an eligible program in subsection (e), but are provided on a contractual basis under Federal, State, or local training programs, or to business and industry. For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year began on or before April 30, 1994.* Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

* * * * * * *

SEC. 483. FORMS AND REGULATIONS.

(a) COMMON FINANCIAL AID FORM AND PROCESSING.—

(1) SINGLE FORM REQUIRED.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, *B*, C, D, and E of this title (other than under subpart 4 of part A) [and to determine the need of a student for the purpose of part B of this title]. The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance. Such form shall satisfy the requirements of section 401(d) of this title. [For the purpose of collecting eligibility and other data for the purpose of part B, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 432(m)) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender.] *Such form may be in an electronic or any other format (subject to section 485B) in order to facilitate use by borrowers and institutions.*

* * * * * * *

(3) DISTRIBUTION OF DATA.—Institutions of higher education [and States shall receive,], *any guaranty agency authorized by*

any such institution, and States shall receive, at their request and without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.

* * * * * * *

(5) ELECTRONIC FORMS.—(A) The Secretary, in cooperation with representatives of institutions of higher education, eligible lenders, and guaranty agencies, shall prescribe an electronic version of the form described in subsection (a)(1). Such electronic form shall not require signatures to be collected at the time such form is submitted if the data contained in the electronic form is certified in one or more separate writings. The Secretary shall prescribe the initial electronic form not later than 90 days after the date of enactment of this paragraph.

(B) Nothing in this Act shall preclude the use of the electronic form prescribed under subparagraph (A) through software developed, produced, distributed (including by diskette, modem or network communication, or otherwise) or collected by eligible lenders, guaranty agencies, eligible institutions, or consortia thereof. Such organization or consortium shall submit such electronic form to the Secretary for review prior to its use. If such electronic form is inconsistent with the provisions of this part, the Secretary shall notify the submitting organization or consortium of his objection within 30 days of such submission, and shall specifically identify the necessary changes. In the absence of such an objection the organization or consortium may use the electronic form as submitted. No fee may be charged in connection with use of the electronic form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.

* * * * * * *

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

* * * * * * *

[PART D—COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

[SEC. 751. CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION.

[(a) PURPOSE.—The Congress hereby declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereinafter referred to as the "Corporation") which will, directly or indirectly, alone or in collaboration with others—

[(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the pro-

ceeds of which are to be used for an education facilities purpose;

[(2) guarantee and insure leases of personal, real, or mixed property to be used for an education facilities purpose; and

[(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2).

[(b) STATUS AS NON-GOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

[(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this part and, to the extent not inconsistent with this part, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

[(d) DEFINITION OF EDUCATION FACILITIES PURPOSE.—As used in this section, an "education facilities purpose" includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of (1) education, training, or research facilities or housing for students, faculty, or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures, and equipment to be used in connection with any education or training facility or housing for students, faculty, or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

[SEC. 752. CRITERIA FOR GUARANTEES AND INSURANCE.

[(a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for education facilities purposes only in accordance with the requirements of this section.

[(b) ALLOCATION OF REINSURANCE CAPACITY.—

[(1) At least the percentages specified in paragraph (2) of the aggregate dollar amount of bond and debenture issues reinsured by the Corporation shall be issues which, without insurance, are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

[(2) For the purpose of paragraph (1) of this subsection, the percentages specified in this paragraph shall be—

[(A) 10 percent for the first full year of operation of the Corporation;

[(B) 30 percent for the second full year of such operation; and

[(C) 50 percent for the third full year of such operation and thereafter.

[(3) No bond or debenture issue which is both reinsured and directly insured by the Corporation may be counted toward the fulfillment of the requirements of paragraph (1).

[(c) DIRECT INSURANCE AND GUARANTEE ACTIVITIES; LIMITATIONS.—

[(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of institutions which are, without insurance or guarantee, listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

[(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

[(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

[(A) 10 percent for the first full year of operation of the Corporation;

[(B) 30 percent for the second full year of such operation; and

[(C) 50 percent for the third full year of such operation and thereafter.

[(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are—

[(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose; and

[(B) leases of personal, real, or mixed property to be used for an education facilities purpose.

[(5) Notwithstanding paragraph (1), the Corporation may issue primary insurance or guarantees covering the assets or obligations of institutions which are, without insurance or guarantee, listed by a nationally recognized statistical rating organization at or above the third highest rating of such organization, subject to all of the following conditions and limitations:

[(A) The proposed transaction shall have been declined for coverage by all unaffiliated monoline insurers that are authorized to write financial guarantee insurance and that, in the previous year, provided primary insurance or guarantees on educational facility obligations. The Secretary shall publish by January 31 of each year a list of all such insurers.

[(B) Within 2 business days of receiving complete documentation concerning a proposed transaction by an institution seeking insurance from the Corporation pursuant to this paragraph (5), an insurer shall offer to provide coverage or execute an affidavit of declination, or its failure to respond shall be deemed a declination. The institution

seeking insurance from the Corporation shall file with the Corporation the affidavits from all declining insurers, as well as an affidavit of the institution's financial advisor specifically identifying the pertinent terms of the proposed transaction, the requested insurance coverage, and the date on which complete documentation concerning the proposed transaction was submitted to each insurer and certifying that such information was provided to each insurer that declined coverage.

[(C) The proceeds of the assets or obligations insured or guaranteed by the Corporation pursuant to this paragraph shall be used exclusively for the renovation, repair, replacement, or construction of academic and educational facilities and shall not be used for the renovation, repair, replacement, or construction of athletic facilities.

[(D) The aggregate par value of assets and obligations insured or guaranteed by the Corporation under this paragraph (5) shall not exceed—

[(i) $100,000,000 per year during calendar years 1993, 1994, and 1995; or

[(ii) $150,000,000 per year during calendar years 1996 and 1997.

[(E) The aggregate dollar amount of transactions under this paragraph (5) shall not exceed—

[(i) in calendar year 1993, 1994, or 1995, 10 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year; or

[(ii) in calendar year 1996 or 1997, 15 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year.

[(d) NOTICE OF SERVICES.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to each eligible institution.

[(e) NONDISCRIMINATION REQUIRED.—

[(1) The Corporation may not carry out any activities with respect to any educational facilities purpose of a participating institution if the institution discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition.

[(2) The prohibition with respect to religion shall not apply to an educational institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

[(3) Each participating institution shall certify to the Corporation that the institution does not discriminate as required by the provisions of paragraph (1).

[SEC. 753. PROCESS OF ORGANIZATION.

[The Secretary of the Treasury, the Secretary, and the Student Loan Marketing Association shall each appoint 2 persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1986, the Student Loan Marketing Association, after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, shall have the authority to name the incorporators which have not been so appointed. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

[SEC. 754. OPERATION AND ELECTION OF BOARD OF DIRECTORS.

[(a) IN GENERAL.—The Corporation shall have a Board of Directors which shall consist of 11 members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary; 3 Directors shall be appointed by the Student Loan Marketing Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator. The failure of the Secretary or the Secretary of the Treasury to make any one or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of (1) the other directors who have been appointed or elected to assume and carry out their duties as directors and (2) the Board so constituted to act for all purposes as the full Board of the Corporation.

[(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–327(d)).

[SEC. 755. INITIAL CAPITAL.

[(a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter.

[(b) SUBSCRIPTION BY SECRETARY.—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

[(c) SUBSCRIPTION BY ASSOCIATION.—The Student Loan Marketing Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting

common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

[(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000. Not less than 40 percent of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

[SEC. 756. ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC.

[The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

[SEC. 757. OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY.

[No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Student Loan Marketing Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

[SEC. 758. AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL.

[(a) AUTHORITY TO SELL.—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of plans of the Secretary.

[(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase. In no event shall the purchase price be less than the original issuance price.

[(c) BOARD OF DIRECTORS ELECTED AFTER MAJORITY BUY-OUT.—If the Student Loan Marketing Association acquires from the Secretary sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 754 (except subsection (b)) shall be of no further force or effect and the Board of Directors of the Corporation

shall thereafter be elected entirely by the voting common shareholders.

[(d) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

[(e) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 755 and 756, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Student Loan Marketing Association and the Corporation.

[SEC. 759. USE OF STOCK SALE PROCEEDS.

[The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Student Loan Marketing Association or any other person shall be deposited in the general fund of the Treasury.

[SEC. 760. AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS.

[(a) ACCOUNTING.—The books of account of the Corporation 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.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 752.]

* * * * * * *

THE ACT OF MARCH 3, 1931

(Commonly referred to as the Davis-Bacon Act)

[AN ACT relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes

[(a) That the advertised specifications for every contract in excess of $2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics, and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

[(b) As used in the Act the term "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include—

[(1) the basic hourly rate of pay; and

[(2) the amount of—

[(A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

[(B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforcible commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected,

for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits:

Provided, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as this Act and other Acts incorporating this Act by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2)(A), or by the assumption of an enforcible commitment to bear the costs of a plan or program of a type referred to in paragraph (2)(B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

[In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under this Act, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater.

[SEC. 2. Every contract within the scope of this Act shall contain the further provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Government may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

[SEC. 3. (a) The Comptroller General of the United States is hereby authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to this Act; and the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of the persons or firms whom he has found to have disregarded their obligations

to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

[(b) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required pursuant to this Act, such laborers and mechanics shall have the right to action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

[SEC. 4. This Act shall not be construed to supersede or impair any authority otherwise granted by Federal law to provide for the establishment of specific wage rates.

[SEC. 5. This Act shall take effect thirty days after its passage, but shall not affect any contract then existing or any contract that may therefore be entered into pursuant to invitations for bids that are outstanding at the time of the passage of this Act.

[SEC. 6. In the event of a national emergency the President is authorized to suspend the provisions of this Act.

[SEC. 7. The funds appropriated and made available by the Emergency Relief Appropriation Act of 1935 (Public Resolution Numbered 11, Seventy-fourth Congress), are hereby made available for the fiscal year ending June 30, 1936, to the Department of Labor for expenses of the administration of this Act.]

THE SERVICE CONTRACT ACT OF 1965

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Service Contract Act of 1965".

[SEC. 2. (a) Every contract (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of $2,500, except as provided in section 7 of this Act, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees shall contain the following:

[(1) A provision specifying the minimum monetary wages to be paid the various classes of service employees in the performance of the contract or any subcontract thereunder, as determined by the Secretary, or his authorized representative, in accordance with prevailing rates for such employees in the locality, or, where a collective-bargaining agreement covers any such service employees, in accordance with the rates for such employees provided for in such agreement, including prospective wage increases provided for in such agreement as a result of arm's-length negotiations. In no case shall such wages be lower than the minimum specified in subsection (b)

[(2) A provision specifying the fringe benefits to be furnished the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such employees in the locality, or, where a collective-bargaining agreement covers any such service employees, to be provided for in such agreement, including prospective fringe benefit increases provided for in such agreement as a result of arm's-length negotiations. Such fringe benefits shall include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor. The obligation under this subparagraph may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary.

[(3) A provision that no part of the services covered by this Act will be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services.

[(4) A provision that on the date a service employee commences work on a contract to which this Act applies, the contractor or subcontractor will deliver to the employee a notice of the compensation required under paragraphs (1) and (2) of this subsection, on a form prepared by the Federal agency, or will post a notice of the required compensation in a prominent place at the worksite.

[(5) A statement of the rates that would be paid by the Federal agency to the various classes of service employees if section 5341 or section 5332 of title 5, United States Code, were applicable to them. The Secretary shall give due consideration to such rates in making the wage and fringe benefit determinations specified in this section.

[(b)(1) No contractor who enters into any contract with the Federal Government the principal purpose of which is to furnish services through the use of service employees and no subcontractor thereunder shall pay any of his employees engaged in performing work on such contracts less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060; 29 U.S.C. 201, et seq.).

[(2) The provisions of sections 3, 4, and 5 of this Act shall be applicable to violations of this subsection.

[SEC. 3. (a) Any violation of any of the contract stipulations required by section 2(a) (1) or (2) or of section 2(b) of this Act shall render the party responsible therefor liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of

such contract. So much of the accrued payment due on the contract or any other contract between the same contractor and the Federal Government may be withheld as is necessary to pay such employees. Such withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the head of the Federal agency or the Secretary has found to be due pursuant to this Act shall be paid directly to the underpaid employees from any accrued payments withheld under this Act.

[(b) In accordance with regulations prescribed pursuant to section 4 of this Act, the Federal agency head or the Secretary is hereby authorized to carry out the provisions of this section.

[(c) In addition, when a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency. Whereupon, the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

[SEC. 4. (a) Sections 4 and 5 of the Act of June 30, 1936 (49 Stat. 2036), as amended, shall govern the Secretary's authority to enforce this Act, make rules, regulations, issue orders, hold hearings, and make decisions based upon findings of fact, and take other appropriate action hereunder.

[(b) The Secretary may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act (other than section 10), but only in special circumstances where he determines that such limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of government business, and is in accord with the remedial purpose of this Act to protect prevailing labor standards.

[(c) No contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract: *Provided*, That in any of the foregoing circumstances such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.

[(d) Subject to limitations in annual appropriation Acts but notwithstanding any other provision of law, contracts to which this Act applies may, if authorized by the Secretary, be for any term of years not exceeding five, if each such contract provides for the periodic adjustment of wages and fringe benefits pursuant to future determinations, issued in the manner prescribed in section 2 of this Act no less often than once every two years during the term of the contract, covering the various classes of service employees.

[SEC. 5. (a) The Comptroller General is directed to distribute a list to all agencies of the Government giving the names of persons or firms that the Federal agencies or the Secretary have found to have violated this Act. Unless the Secretary otherwise recommends because of unusual circumstances, no contract of the United States shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest until three years have elapsed from the date of publication of the list containing the name of such persons or firms. Where the Secretary does not otherwise recommend because of unusual circumstances, he shall, not later than ninety days after a hearing examiner has made a finding of a violation of this Act, forward to the Comptroller General the name of the individual or firm found to have violated the provisions of this Act.

[(b) If the accrued payments withheld under the terms of the contract are insufficient to reimburse all service employees with respect to whom there has been a failure to pay the compensation required pursuant to this Act, the United States may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayments. Any sums thus recovered by the United States shall be held in the deposit fund and shall be paid, on order of the Secretary, directly to the underpaid employee or employees. Any sum not paid to an employee because of inability to do so within three years shall be covered into the Treasury of the United States as miscellaneous receipts.

[SEC. 6. In determining any overtime pay to which such service employees are entitled under any Federal law, the regular or basic hourly rate of pay of such an employee shall not include any fringe benefit payments computed hereunder which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(d) thereof.

[SEC. 7. This Act shall not apply to—

[(1) any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works;

[(2) any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

[(3) any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published traff rates are in effect;

[(4) any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

[(5) any contract for public utility services, including electric light and power, water, steam, and gas;

[(6) any employment contract providing for direct services to a Federal agency by an individual or individuals; and

[(7) any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations.

[SEC. 8. For the purpose of this Act—

[(a) "Secretary" means Secretary of Labor.

[(b) The term "service employee" means any person engaged in the performance of a contract entered into the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

[(c) The term "compensation" means any of the payments or fringe benefits described in section 2 of this Act.

[(d) The term "United States" when used in a geographical sense shall include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island, but shall not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country.

[SEC. 9. This Act shall apply to all contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after ninety days from the date of enactment of this Act.

[SEC. 10. It is the intent of the Congress that determinations of minimum monetary wages and fringe benefits for the various classes of service employees under the provisions of paragraphs (1) and (2) of section 2 should be made with respect to all contracts subject to this Act, as soon as it is administratively feasible to do so. In any event, the Secretary shall make such determinations with respect to at least the following contracts subject to this Act which are entered into during the applicable fiscal year:

[(1) For the fiscal year ending June 30, 1973, all contracts under which more than twenty-five service employees are to be employed.

[(2) For the fiscal year ending June 30, 1974, all contracts under which more than twenty service employees are to be employed.

[(3) For the fiscal year ending June 30, 1975, all contracts under which more than fifteen service employees are to be employed.

[(4) For the fiscal year ending June 30, 1976, all contracts under which more than ten service employees are to be employed.

[(5) On or after July 1, 1976, all contracts under which more than five service employees are to be employed.]

ROLLCALL NO. 1

By Mr. Petri: A Motion to move the previous question on debate to postpone the markup passed by a vote of 17 to 15.

Member	Aye	No	Present
Chairman Goodling	X		

Member	Aye	No	Present
Mr. Petri	X		
Mrs. Roukema			
Mr. Gunderson	X		
Mr. Fawell	X		
Mr. Ballenger	X		
Mr. Barrett	X		
Mr. Cunningham	X		
Mr. Hoekstra	X		
Mr. McKeon	X		
Mr. Castle	X		
Mrs. Meyers			
Mr. Johnson	X		
Mr. Talent			
Mr. Greenwood			
Mr. Hutchinson			
Mr. Knollenberg	X		
Mr. Riggs	X		
Mr. Graham	X		
Mr. Weldon	X		
Mr. Funderburk			
Mr. Souder			
Mr. McIntosh	X		
Mr. Norwood	X		
Mr. Clay		X	
Mr. Miller		X	
Mr. Kildee		X	
Mr. Williams		X	
Mr. Martinez		X	
Mr. Owens		X	
Mr. Sawyer		X	
Mr. Payne		X	
Mrs. Mink		X	
Mr. Andrews			
Mr. Reed		X	
Mr. Roemer		X	
Mr. Engel			
Mr. Becerra		X	
Mr. Scott		X	
Mr. Green			
Ms. Woolsey		X	
Mr. Romero-Barcelo		X	
Mr. Reynolds			
Totals	17	15	

ROLLCALL NO. 2

By Mr. Clay: A motion to postpone the markup indefinitely. Defeated by a vote of 16 to 20.

Member	Aye	No	Present
Chairman Goodling		X	
Mr. Petri		X	
Mrs. Roukema			
Mr. Gunderson		X	
Mr. Fawell		X	
Mr. Ballenger		X	
Mr. Barrett		X	
Mr. Cunningham		X	
Mr. Hoekstra		X	
Mr. McKeon		X	
Mr. Castle		X	
Mrs. Meyers		X	
Mr. Johnson		X	

Member	Aye	No	Present
Mr. Talent	.....	X	.....
Mr. Greenwood	.....	.....	.....
Mr. Hutchinson	.....	X	.....
Mr. Knollenberg	.....	X	.....
Mr. Riggs	.....	X	.....
Mr. Graham	.....	X	.....
Mr. Weldon	.....	X	.....
Mr. Funderburk	.....	.....	.....
Mr. Souder	.....	.....	.....
Mr. McIntosh	.....	X	.....
Mr. Norwood	.....	X	.....
Mr. Clay	X	.....	.....
Mr. Miller	X	.....	.....
Mr. Kildee	X	.....	.....
Mr. Williams	X	.....	.....
Mr. Martinez	X	.....	.....
Mr. Owens	X	.....	.....
Mr. Sawyer	X	.....	.....
Mr. Payne	X	.....	.....
Mrs. Mink	X	.....	.....
Mr. Andrews	.....	.....	.....
Mr. Reed	X	.....	.....
Mr. Roemer	X	.....	.....
Mr. Engel	.....	.....	.....
Mr. Becerra	X	.....	.....
Mr. Scott	X	.....	.....
Mr. Green	X	.....	.....
Ms. Woolsey	X	.....	.....
Mr. Romero-Barcelo	X	.....	.....
Mr. Reynolds	.....	.....	.....
Totals	16	20	.....

ROLLCALL NO. 3

By Mr. Williams: A motion to refer the legislation to the Subcommittee on Postsecondary Education, Training and Life-Long Learning. Defeated by a vote of 11 to 23.

Member	Aye	No	Present
Chairman Goodling	.....	X	.....
Mr. Petri	.....	X	.....
Mrs. Roukema	.....	X	.....
Mr. Gunderson	.....	X	.....
Mr. Fawell	.....	X	.....
Mr. Ballenger	.....	X	.....
Mr. Barrett	.....	X	.....
Mr. Cunningham	.....	X	.....
Mr. Hoekstra	.....	X	.....
Mr. McKeon	.....	X	.....
Mr. Castle	.....	X	.....
Mrs. Meyers	.....	X	.....
Mr. Johnson	.....	X	.....
Mr. Talent	.....	X	.....
Mr. Greenwood	.....	.....	.....
Mr. Hutchinson	.....	X	.....
Mr. Knollenberg	.....	X	.....
Mr. Riggs	.....	X	.....
Mr. Graham	.....	X	.....
Mr. Weldon	.....	X	.....
Mr. Funderburk	.....	X	.....
Mr. Squder	.....	X	.....
Mr. McIntosh	.....	X	.....
Mr. Norwood	.....	X	.....

Member	Aye	No	Present
Mr. Clay	X		
Mr. Miller			
Mr. Kidlee	X		
Mr. Williams	X		
Mr. Martinez	X		
Mr. Owens			
Mr. Sawyer	X		
Mr. Payne			
Mrs. Mink	X		
Mr. Andrews	X		
Mr. Reed	X		
Mr. Roemer	X		
Mr. Engel			
Mr. Becerra			
Mr. Scott	X		
Mr. Green			
Ms. Woolsey	X		
Mr. Romero-Barcelo			
Mr. Reynolds			
Totals	11	23	

ROLLCALL NO. 4

By Mr. Petri: A motion to report with an amendment in the nature of a substitute the reconciliation recommendations to the Committee on the Budget. Passed by a vote of 23 to 14.

Member	Aye	No	Present
Chairman Goodling	X		
Mr. Petri		X	
Mrs. Roukema	X		
Mr. Gunderson	X		
Mr. Fawell	X		
Mr. Ballenger	X		
Mr. Barrett	X		
Mr. Cunningham	X		
Mr. Hoekstra	X		
Mr. McKeon	X		
Mr. Castle	X		
Mrs. Meyers	X		
Mr. Johnson	X		
Mr. Talent	X		
Mr. Greenwood	X		
Mr. Hutchinson	X		
Mr. Knollenberg	X		
Mr. Riggs	X		
Mr. Graham	X		
Mr. Weldon	X		
Mr. Funderburk	X		
Mr. Souder	X		
Mr. McIntosh	X		
Mr. Norwood	X		
Mr. Clay		X	
Mr. Miller			
Mr. Kildee		X	
Mr. Williams		X	
Mr. Martinez		X	
Mr. Owens		X	
Mr. Sawyer		X	
Mr. Payne			
Mrs. Mink		X	
Mr. Andrews		X	
Mr. Reed		X	

Member	Aye	No	Present
Mr. Roemer		X	
Mr. Engel			
Mr. Becerra		X	
Mr. Scott		X	
Mr. Green			
Ms. Woolsey		X	
Mr. Romero-Barcelo			
Mr. Reynolds			
Totals	23	14	

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 2(l)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 2(l)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the committee has received the following cost estimate for the committee's recommendations from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 1995.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Economic and Educational Opportunities, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office [CBO] has prepared the enclosed cost estimate for the reconciliation language approved by the House Committee on Economic and Educational Opportunities on September 28, 1995.

The estimate shows the budgetary effects of the committee's proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill title: Reconciliation Recommendations of the House Committee on Economic and Educational Opportunities.

2. Bill status: As approved by the House Committee on Economic and Educational Opportunities, September 28, 1995.

3. Bill purpose: To reduce the cost of the Federal student loan programs, to privatize the College Construction Loan Insurance Association [Connie Lee] by removing its current government-sponsored enterprise [GSE] status and requiring the sale of the government's stock in the corporation, to repeal the Davis-Bacon and Service Contract Acts, and to amend the Employee Retirement Income Security Act [ERISA] to provide for a waiver for the 30-day minimum waiting period for joint and survivor annuity.

4. Estimated cost to the Federal Government: Table 1 summarizes the budgetary effects of this bill, assuming that appropriations are reduced to reflect the repeals of the Davis-Bacon and Service Contract Acts.

TABLE 1. BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING							
Changes in Student Loans:							
Estimated Budget Authority	−1,709	−1,144	−1,330	−1,553	−1,601	−1,671	−1,746
Estimated Outlays	−1,393	−1,126	−1,261	−1,463	−1,589	−1,654	−1,722
Repeal of the Davis-Bacon and Service Contract Acts:							
Estimated Budget Authority	−4	−7	−6	−5	−5	−5	−4
Estimated Outlays	−1	−4	−5	−5	−5	−4	−4
Total:							
Estimated Budget Authority	−1,713	−1,151	−1,336	−1,558	−1,606	−1,676	−1,750
Estimated Outlays	−1,394	−1,130	−1,266	−1,468	−1,594	−1,658	−1,726
RECEIPTS FROM ASSET SALES							
Sale of Connie Lee Stock:							
Estimated Budget Authority	−7	0	0	0	0	0	0
Estimated Outlays	−7	0	0	0	0	0	0
AUTHORIZATIONS OF APPROPRIATIONS							
Repeal of the Davis-Bacon and Service Contracts Acts:							
Estimated Obligational Authority	−1,067	−1,462	−1,508	−1,552	−1,601	−1,651	−1,701
Estimated Outlays	−547	−978	−1,198	−1,343	−1,464	−1,517	−1,568

Note.—Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirements.

5. Basis of estimate: Student loans. This estimate assumes that the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later. The bill establishes an overall effective date for all student loan provisions of January 1, 1996, unless otherwise noted. In addition, the proposed student loan program changes are estimated based on the assumptions of the budget resolution for fiscal year 1996, which modified the accounting for the direct administrative costs of the direct student loan program.

Most provisions affecting the student loan programs are assessed under the requirements of credit reform. As such, the budget estimates are calculated on a present value basis, which accounts for

all of the costs and collections associated with the loans regardless of the year in which they occur.

This bill makes several changes in the student loan programs, which under current law are expected to guarantee or issue about 50 million new loans totaling roughly $220 billion over the 7 years. The combination of program revisions essentially leave program eligibility unchanged while lowering the government's cost of providing loan capital to students and parents. In general, the proposed changes may be generally classified by their impacts: changes affecting program financing, changes affecting borrowers' costs, changes imposing increased costs on lenders or holders of student loans, and changes affecting guarantors.

The combination of the changes included in this bill would lower program costs by $1.4 billion in 1996 and $10.2 billion over the 1996–2002 period (see table 2). By 2002, the overall Federal discounted cost of providing loan capital to students and parents would be reduced by about 4 percent per each dollar loaned from an estimated 12 percent to 8 percent.

TABLE 2. BUDGETARY IMPACT OF STUDENT LOAN PROPOSALS—DIRECT SPENDING

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Spending Under Current Law: [1] [2]								
Estimated Budget Authority	4,450	3,974	3,652	3,991	4,364	4,661	4,881	5,110
Estimated Outlays	3,824	3,429	3,504	3,520	3,818	4,138	4,336	4,536
Proposed Changes:								
Estimated Budget Authority	.....	−1,709	−1,144	−1,330	−1,553	−1,601	−1,671	−1,746
Estimated Outlays	.....	−1,393	−1,126	−1,261	−1,463	−1,589	−1,654	−1,722
Spending Under the Proposal: [1] [2]								
Estimated Budget Authority	4,450	2,265	2,508	2,661	2,811	3,060	3,210	3,364
Estimated Outlays	3,824	2,036	2,378	2,259	2,255	2,549	2,682	2,814

[1] Spending totals exclude the liquidating accounts.
[2] Spending totals reflect the treatment of direct loan administrative costs specified in the budget resolution.

The attached table shows the budgetary effects of each proposal which significantly affects the costs of the student loan programs, estimated as if each proposal were the only change to current law. Only those proposed changes with significant effects on the Federal budget are discussed in the text below. The interactions among all of the proposed changes are totaled as a separate line in the table.

Program Financing. All students would be required to receive their loans through the guaranteed loan program, where the calculated Federal costs of providing the loan are marginally lower than through the direct loan program. The direct loan program would be terminated. Also, the amount of funds available from the current capped entitlement fund to cover Department of Education administrative expenses for the direct loan program would be substantially reduced.

This bill would terminate the current direct loan program in July 1996. Over the next 7 years, approximately $115 billion in loan volume would be shifted to the guaranteed loan program. Under the assumptions of the budget resolution, guaranteed loans have a marginally lower calculated Federal subsidy cost. By itself, this shift of loan volume to the guaranteed loan programs lowers Federal costs by an estimated $855 million over the 1996–2002 period.

This year's budget resolution conformed the budget treatment of the administrative costs of direct student loans with that for guaranteed student loans. For purposes of the congressional budget scorekeeping, the change overrides the Credit Reform Act, which requires that the Federal administrative costs for direct loan programs be accorded a cash-accounting treatment. For estimating legislation under the budget resolution, CBO has included in the baseline for direct student loans the present value of the direct Federal administrative costs, including the loans' servicing costs. Thus, the subsidy cost of direct loans issued in a given year includes all administrative costs over the life of the loan portfolio, taking account of the time value of funds. The subsidy costs of any cohort of direct loans will include the discounted future administrative costs of servicing loans which may be in repayment (or collection) for as long as 25 to 30 years. The inclusion of these administrative costs in the subsidy calculations for direct loans increases the subsidy rates for these loans by about 7 percentage points.

Incorporating the direct administrative costs of direct student loans in the subsidy calculations (under the assumptions of the budget resolution) brings the subsidy costs of direct loans to levels slightly above that for guaranteed loans in each of the next 7 years except 1997. As a result, a shift to 100 percent guaranteed loans would reduce overall subsidy costs under the assumption of the budget resolution, whereas the same change would appear to increase costs under the assumptions of the CBO baseline, which shows the direct administrative costs of direct loans on a cash basis.

Although subsidy rates for direct student loans are generally higher than those for guaranteed loans under the budget resolution assumptions, the difference is modest, and a reversal of the relative costs could occur with only minor changes in estimating assumptions. The estimated cost of the direct loan program is particularly sensitive to the interest rates used.

The budget resolution included $2.2 billion for 1996 through 2002 for the Department of Education's administrative capped entitlement fund after adjusting that fund for the exclusion of direct administrative expenses. This bill would reduce the funds for indirect Federal administrative expenses by about $850 million over the next 7 years. It would also reduce direct payments to guaranty agencies by a total of $785 million.

Borrowers. The amount of interest the government pays lenders on the students' behalf in the subsidized loan program would be decreased by reducing the subsidized period by 6 months. Most student borrowers would have to assume payment of one-half year's interest expense, about 4 percent of the original principal amount of the loan. In addition, the interest rate on loans to parent borrowers as well as the maximum interest rate cap would be increased. Also, the maximum amount a parent would be eligible to borrow per student would be limited to $15,000 annually.

Under current law, students with subsidized loans have a 6-month grace period after they leave school during which the Federal Government pays the interest on the loans. This legislation would shift the burden of these interest payments to students, who could either pay the interest as it accrues during the 6-month pe-

riod or capitalize the interest payments into the principal amount of the loan. These provisions, which are comparable to features of unsubsidized student loans, would save $245 million in 1996 and about $3.8 billion over the 1996–2002 period.

Parent loans would be affected by an increase in the interest rate and by an increase in the ceiling on the maximum interest rate which could be charged. The interest rate for parent loans is currently established at the 365-day Treasury bill rate plus 3.1 percent for loans made between now and July 1, 1998, and at the 10-year Treasury bond rate plus 2.1 percent for loans after that date. This legislation would set the rate at the 365-day Treasury bill rate plus 4.0 percent. In addition, the current maximum interest rate which can be charged for these loans is 9 percent, and the bill would increase this cap to 11 percent. These changes, together with the $15,000 annual limit on PLUS loans, would reduce PLUS volume by an estimated 1 percent, or about $2.2 billion over the 1996–2002 period. Because the estimated subsidy rates on these loans are very small, the annual budgetary impact of these changes are negligible.

Lenders and Holders. The income of lenders and holders would be reduced, first, by requiring that 1.6 percent of the interest income received on parent loans be rebated to the Federal Government over the life of the loan. Second, lender origination fees would be increased by 0.5 percent of the principal amount of the loans. This fee increase, coupled with another 0.2 percent of the 0.5 percent currently received by the government, would be paid to guaranty agencies to cover administrative costs. Third, lenders would, in general, receive insurance for only 95 percent of a defaulted loan rather than the current 98 percent. Fourth, lenders would be required to pay a new 0.2 percent fee any time a loan is sold to another lender or holder.

The imposition on lenders or holders of parent [PLUS] loans of a 1.6 percent interest rate rebate would substantially lower the Federal costs of PLUS loans. Lenders would have to rebate annually to the government an amount equal to 1.6 percent of the outstanding principal on each loan they hold. Lenders could offset a portion of the rebate by charging higher interest rates to borrowers. The rebate fee would reduce Federal costs by $90 million in 1996 and by $890 million over the 1996–2002 period.

The bill would also increase the origination fees charged lenders by the government from 0.5 percent to 1.0 percent of the amount of each loan, including loan consolidations. These fees plus 0.2 percent of the origination fee now paid to the government would be transferred to guaranty agencies, and would essentially replace a portion of the payments made to the agencies out of the Department of Education's mandatory funds. The loss in the Federal share of the origination fees increases the subsidy costs by $30 million in 1996 and $235 million over the next 7 years.

Another provision that significantly affects lenders is the reduction in the guaranteed portion of the loan. Under current law, lenders are paid 98 percent of the defaulted loans they turn over to the guaranty agencies. This provision would reduce the insured component to 95 percent. Federal costs would be reduced by $260 million over the 1996–2002 period.

Finally, the bill would introduce a new 0.2 percent fee on the principal amount of loans sold by one lender or holder to another. This fee is estimated to reduce program costs by about $170 million over the next 7 years.

Guarantors. Guaranty agencies would be affected by reducing the portion of the loans that would be reinsured, eliminating supplemental preclaim assistance subsidies, and increasing the length of time the agencies would be required to establish loan repayments from defaulters before they could file for Federal reinsurance payments.

In general, guarantors would see their Federal reinsurance on defaulted loans lowered from 98 percent to 96 percent. This change by itself would save about $180 million over the next 7 years.

The Federal subsidies paid to guaranty agencies to perform supplemental preclaim assistance to lenders would be eliminated, which would reduce subsidy costs by about $255 million over the 1996–2002 period.

Guaranty agencies would be required to use their reserve funds to purchase the potentially most collectible of defaults from lenders and aggressively seek repayment for at least 9 months before being eligible to file for Federal reinsurance. Currently guaranty agencies file for Federal reinsurance within 45 days of paying an insurance claim from a lender. This requirement to "work" the defaulted loans for a longer period is estimated to reduce subsidy costs by about $1.0 billion over the projection period.

Interactions Among the Provisions. Because the various proposed changes in the student loan programs have significant interactions, the total savings from all of the provisions together does not equal the sum of the individual components. For example, the proposal would eliminate the Federal subsidy to schools and alternate loan originators for loan origination fees under the direct loan program. By itself, this change would reduce Federal costs by $880 million over 7 years. Because the proposal would eliminate the direct loan program, however, eliminating this particular subsidy would produce no additional savings.

When all of the provisions are considered together, the interactions increase the savings by $5 million in 1996 and $555 million through 2002. This is the net effect of all of the changes, some of which increase Federal costs and of others which decrease costs.

Connie Lee

This bill would repeal the law that established the College Construction Loan Insurance Association [Connie Lee] and would mandate the Secretary of the Treasury to make every effort to sell the government's stock—which currently is not being publicly traded—within 6 months of enactment. If the Secretary is unable to sell the stock for an acceptable price, then the newly privatized Connie Lee must purchase the stock at a price determined by the Secretary based on a independent appraisal and acceptable to the Corporation except that the price shall not exceed the value of the stock as determined by CBO in its estimate of June 20, 1995. Connie Lee is a GSE established in 1987 to provide loan guarantees for college construction projects. There are currently no on-budget Federal costs for the GSE.

The government owns 1,914,800 shares of Connie Lee stock from its initial investment of $19.1 million in 1987. In its estimate of H.R. 1720 prepared on June 20, 1995, CBO estimated that the proceeds from the sale of the Connie Lee stock would be approximately $7 million. That estimate was based on an analysis that examined Connie Lee's return on equity and potential price-earnings ratio compared to those of other financial guaranty companies that are publicly traded, making adjustments for Connie Lee's lower credit quality and the fact that its stock is not a liquid asset.

Repeal of the Davis-Bacon and Service Contract Acts

Two construction accounts are subject to the Davis-Bacon Act requirements are considered to be direct spending. They are the United States Enrichment Corporation and the Bonneville Power Administration. In these two programs, repealing Davis-Bacon would save $1 million in fiscal year 1996 and $28 million over the 1996–2002 period. The estimated savings are the net effect of reduced construction spending and reduced receipts, because the affected agencies are required to establish power rates consistent with changes in their operating costs. Because changes in capital costs are amortized into the rate structures over a 15-year to 20-year period, the long-term effect on mandatory spending of repealing the Davis-Bacon Act would be negligible. The authorizations of appropriations shown for the repeal of the Davis-Bacon Act in table 3 represent estimated obligational authority, which includes estimates of appropriated budget authority as well as estimated obligations from certain transportation trust funds, which are not considered budget authority.

TABLE 3. BUDGETARY IMPACT OF REPEALING THE DAVIS-BACON AND SERVICE CONTRACT ACTS—AUTHORIZATIONS OF APPROPRIATIONS

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Estimated Savings from Repeal of the Davis-Bacon Act:							
Estimated Authorization of Appropriations	−614	−841	−868	−893	−923	−952	−981
Estimated Outlays	−117	−365	−558	−685	−786	−819	−849
Estimated Savings from Repeal of the Service Contract Act:							
Estimated Authorization of Appropriations	−452	−621	−640	−659	−678	−699	−720
Estimated Outlays	−430	−612	−639	−658	−678	−698	−719
Total:.							
Estimated Authorization of Appropriations	−1,067	−1,462	−1,508	−1,552	−1,601	−1,651	−1,701
Estimated Outlays	−547	−978	−1,198	−1,343	−1,464	−1,517	−1,568

Repeal of the Davis-Bacon Act. The requirements of the Davis-Bacon Act [DBA] affect contracts on Federal construction or federally assisted construction of $2,000 or more, without regard to the nature of the project. Currently, the Department of Labor makes its wage determinations based on the specific wages and benefits earned by at least 50 percent of workers in a classification, or on the weighted average of the wages and benefits paid to workers in

that classification. The former method tends to be used in heavily unionized construction markets, and the latter in less unionized settings.

A Congressional Budget Office [CBO] study in 1983 estimated that the requirements of the DBA increase Federal construction costs by 3.7 percent. This estimate was based on a method of determining prevailing wages called the "30 percent rule." When the 30-percent rule was changed to the currently used "majority wage" calculations, CBO revised its estimate to 3.3 percent. The 3.3 percent estimate also included the effects of certain restrictions on the use of helpers, which contributed 1.6 percentage points of the total effects of the DBA. Since that time, a Federal Court of Appeals has ruled that the Department of Labor could impose regulations designating helpers as a separate class of workers, which effectively would eliminate the DBA restriction on helpers. Although the fiscal year 1995 appropriations bill for the Department prohibited the Secretary from using any funds under that act to implement the new helper regulations, the prohibition expires with the 1995 funds themselves. Therefore, CBO estimates that the DBA will increase Federal construction costs for contracts left after 1995 by 1.7 percent. A repeal of the DBA would allow for a reduction in Federal outlays of $117 million in fiscal year 1996 and $4.2 billion over the next 7 years, if appropriations are reduced accordingly.

Any estimate of the cost implications of the DBA is uncertain. Very little empirical work has been published on the subject since CBO's 1983 report, and even then there was little consensus as to the precise cost impacts. At the time, CBO's estimate was toward the low end of the range of estimated impacts, which stretched from 0.1 percent in a study by Steven Allen of North Carolina State University to as much as 11 percent in a study by President Carter's Council of Economic Advisers.

Trends since 1983 give conflicting indications as to possible changes in the impact of the DBA. For example, fewer construction workers are represented by unions—21.0 percent in 1993, compared with 29.4 percent in 1983. As a result, union wages could have less of an impact in the determination of a prevailing wage, thereby lessening the impact of the DBA on Federal construction costs. Furthermore, the wage differential between union and nonunion construction workers has declined in the past decade. The ratio of cash wages for union construction workers to those for nonunion construction workers was 1.62 in 1993, as compared with 1.72 in 1983.

However, the cash wage ratio does not account for fringe benefits, which are also covered by the requirements of the DBA. While the wage differential may have declined, the difference between total compensation—including fringe benefits like health insurance—received by union and nonunion construction workers may have grown. Unfortunately, there is no continuous data series for total compensation of construction workers. The first year that wage and compensation data are available for blue collar workers is 1987, but these data cover all blue collar workers, of which construction workers are a subset. CBO's 1983 report was based on 1979 figures, which indicated that the ratio of the total compensation for union construction workers to that of nonunion workers

was 1.54. The corresponding ratio for blue collar workers (of which construction workers are a subset) was 1.74 in 1994, the same level as in 1987.

Finally, the data discussed above apply to a broad spectrum of construction or blue collar workers, while much of the Federal construction funding is for highways. Whether broad trends are indicative of the compensation patterns in highway construction is uncertain. Thus, relevant data are sparse, the broad trends are ambiguous, and the applicability of the available information to estimating the impact of the DBA is uncertain. Therefore, although we have made minor changes to our method for estimating the Federal cost impacts of the DBA, in the absence of any clear evidence to contradict the results of the 1983 report, CBO has based this estimate on the findings indicated in its 1983 study.

CBO projects spending authority for Federal or federally financed construction to grow from about $48 billion in 1996 to about $58 billion by 2002. The largest percentage of Federal construction spending is for transportation programs, at $22.7 billion in spending authority for fiscal year 1996, or about 47 percent of the total. This amount includes spending from the Highway Trust Fund, the Airport and Airway Trust Fund, the Harbor Maintenance Trust Fund, and the Inland Waterways Trust Fund. Other major areas of construction spending are natural resources and environment ($8.4 billion), national defense ($6.0 billion), and income security ($4.7 billion). Construction outlays tend to flow slowly from spending authority. Accordingly, outlays from new spending authority in fiscal year 1996 are expected to be approximately $8.8 billion, including $3.3 billion for transportation, $0.7 billion for defense, and $3.5 billion for natural resources and environment. Fiscal year 1996 construction authority in the income security function is not reflected in outlays until fiscal year 1997 and subsequent years. The estimated savings from repeal of the Davis-Bacon Act are 1.7 percent of these amounts.

Repeal of the Service Contract Act. The McNamara-O'Hara Service Contract Act [SCA] was enacted in 1965 to require that contractors providing services to the Federal Government—for example janitorial, laundry, security, or data-processing functions—pay wages and fringe benefits that are prevailing in the area where the services are supplied. Similar to the procedures under the Davis-Bacon Act, the Department of Labor conducts wage surveys in different areas of the country to determine the distribution of wages and fringe benefits and to determine the prevailing practices in particular areas. The prevailing wage is generally established at the average wage in the area for each class of worker, and Federal contractors must pay workers at or above the prevailing wage.

According to the Department of Labor, a review of wage rates in a number of different areas and occupations indicated that the requirement to pay prevailing wages raised wage rates an average of 4.17 percent (See *Federal Register,* August 14, 1981, p. 41383). In this estimate CBO has reduced this factor to 3.0 percent to reflect the fact that labor costs are not the only costs covered within these contracts. In the absence of any clear evidence as to the direction and magnitude of the changes in the services industry (particularly services for which the Federal Government contracts with private

enterprises), CBO has continued to use the same assumptions for estimating the cost of repealing the SCA since the late 1980's.

CBO projects that the volume of services covered under the SCA will grow from its 1994 level of about $19 billion to over $24 billion in 2002. Consequently, CBO estimates that repeal of the SCA would reduce Federal contracting costs by about $0.5 billion in 1996 and $4.4 billion over the 1996–2002 period.

Employee Retirement Income Security Act

This bill would amend ERISA to provide that the 30-day minimum waiting period between the date an explanation of the joint and survivor annuity is provided and the annuity starts may be waived by the participant. This waiver would cause a slight acceleration in distribution of qualified plans. The Joint Committee on Taxation estimates that this provision would have negligible revenue effects. CBO concurs with the estimate.

6. Estimated cost to State and local government: The reconciliation recommendations of the House Economic and Educational Opportunities Committee are likely to have a number of offsetting effects on the finances of State and local governments. The net impact of these effects cannot be quantified at this time.

Changes in the student loan programs would affect most colleges and universities. Many of these institutions are public and receive some financial assistance from State governments, so that some of these effects could be borne by State governments. To the extent the changes make student loans more expensive to borrowers, total enrollments and the distribution of enrollments among private and public schools could change. How the institutions of higher learning cope with these changes may determine whether State and local governments would choose to alter their contributions to the schools presently receiving governmental support.

The recommendations to repeal the Davis-Bacon Act would have some impact on construction costs for State and local governments. Many projects involving State and local matching funds would become less costly under this proposal, although the impact would vary considerably by State. Currently, 18 States do not have their own prevailing wage laws affecting construction activities. In those States, we expect that repealing Davis-Bacon would reduce costs on virtually all projects involving Federal funds. The States with prevailing wage laws applying to construction often differ in a variety of ways including the minimum contract size for which the prevailing wage laws are binding, making it difficult to estimate the impact of changes in the Federal law. (The minimum contract thresholds range from $0 to $600,000.) Moreover, the definitions of prevailing wages, reporting requirements, and other matters also may differ. While repeal of Davis-Bacon is likely to benefit State and local governments in general, CBO is unable to estimate the total impact of repeal.

7. Estimate comparison: On April 21, 1995, CBO prepared a cost estimates for H.R. 500 and S.141, both bills would have repealed the Davis-Bacon Act. At the time, CBO did not estimate any effect on direct spending from the repeal of the DBA.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Kalcevic, student loans; Christina Hawley, Davis-Bacon and Service Contract Acts; and Marc Nicole, State and local.

10. Estimate approved by: Paul Van de Water, Assistant Director for Budget Analysis.

HOUSE COMMITTEE ON ECONOMIC AND EDUCATION OPPORTUNITIES, STUDENT LOAN PROGRAM RECONCILIATION PROVISIONS

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Change the phase-in of the direct loan program from 50 percent to 0 percent of total student and parent loan volume for academic year 1996–97 and 1997–98 and from 60 percent to 0 percent for academic year 1998–99 and all years thereafter. (Assumes all new loans affected):									
Budget authority	.....	−140	90	−35	−220	−220	−230	−245	−1,000
Outlays	.....	−80	30	15	−145	−215	−225	−235	−855
Change the annual budget authority levels for the section 458 direct loan administrative cost mandatory spending account from $550 million to $110 million in 1996, from $595 million to $24 million in 1997 (assuming the use of $46 million in unobligated funds from 1994 levels to fund 1997 obligations totaling $70 million), and from $750 million to $70 million in 1998. For 1999 through 2002 the levels would be $70 million each year. The cumulative $2.5 billion spending limit for 1994–98 would be eliminated:									
Budget authority	.....	−269	−264	−265	−253	−221	−221	−221	−1,714
Outlays	.....	−198	−251	−261	−248	−229	−224	−222	−1,633
Eliminate the Federal interest subsidy on subsidized guaranteed and direct loans during the 6-month grace period prior to the beginning of loan repayment. As with unsubsidized loans, interest could be accrued and capitalized during this period. (Assumes all new loans affected):									
Budget authority	.....	−365	−525	−555	−590	−615	−645	−680	−3,975
Outlays	.....	−245	−475	−545	−575	−610	−635	−670	−3,755
Increase the PLUS loan interest rate to the 365-day treasury rate plus 4.0 percent and cap it at 11 percent. In the guaranteed program 1.6 percentage points of the interest income would be rebated to the government to offset program costs. Currently the interest rates are the 365-day treasury rate plus 3.1 percent capped at 9 percent prior to July 1998 and the comparable maturity rate (10-year bond rate) plus 2.1 percent capped at 9 percent as of July 1998. (Assumes all new loans affected):									
Budget authority	.....	−95	−125	−125	−120	−135	−145	−150	−895
Outlays	.....	−90	−125	−125	−120	−135	−145	−150	−890
Lower the annual borrowing levels for PLUS loans to $15,000 per student. Currently, there is no annual borrowing limit on PLUS loans although borrowing is limited to the student's calculated cost of attendance. (Assumes all new loans affected):									
Budget authority	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Outlays	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

Lower the Federal share of the lender origination fee on guaranteed loans, including consolidation loans, from 0.5 percent to 0.3 percent but increase the overall lender fee to 1.0 percent and give 0.7 percent to guaranty agencies. (Assumes all new loans including new consolidation loans affected):									
Budget authority		40	35	35	30	35	35	35	245
Outlays		30	35	35	30	35	35	35	235
Reduce the loan guarantee on all loans including loans made by lenders with exceptional performance—except exclude loans made as lender-of-last-resort—from 98 percent to 95 percent. (Assumes all new loans affected):									
Budget authority		−30	−40	−40	−40	−40	−40	−45	−275
Outlays		−20	−40	−40	−40	−40	−40	−40	−260
Impose a 0.20 percent lender transfer fee on the outstanding principal value of a loan each time a loan is transferred from one lender to another. (Assumes both old and new loans affected):									
Budget authority		−70	−20	−15	−15	−15	−20	−20	−175
Outlays		−65	−20	−15	−15	−15	−20	−20	−170
Reduce the Federal reinsurance on all loans including those insured by guaranty agencies with exceptional performance from 98/88/78 percentages to 96/86/76 percentages except exclude those made as lender-of-last-resort. (Assumes all new loans affected):									
Budget authority		−20	−30	−30	−25	−25	−30	−30	−190
Outlays		−15	−25	−30	−25	−25	−30	−30	−180
Eliminate supplemental preclaim payments to guaranty agencies which equal 1 percent of the principal and interest of loans for which assistance was provided lenders, and the lenders did not file a default claim on or before the 390th day from deliquency. (Assumes both outstanding and new loans affected):									
Budget authority		−115	−25	−25	−25	−20	−25	−25	−260
Outlays		−105	−25	−25	−25	−25	−25	−25	−255
Keep the time before lenders may file for an insurance claim at 180 days from delinquency. However, increase the time before guaranty agencies may file for reinsurance from the Federal Government to 360 days from deliquency, except for documented uncollectable loans which could be filed prior to 360 days. (Assumes both outstanding and new loans affected):									
Budget authority		−590	−80	−75	−70	−75	−80	−85	−1,055
Outlays		−560	−80	−80	−75	−75	−80	−80	−1,030
Change the provisions governing the guaranty agencies and their reserve funds by changing the standards for mandatory assignment, clarifying the uses of the reserve funds, and limiting the Secretary's authority to the Federal portion of the reserve funds:									
Budget authority									
Outlays									

HOUSE COMMITTEE ON ECONOMIC AND EDUCATION OPPORTUNITIES, STUDENT LOAN PROGRAM RECONCILIATION PROVISIONS—Continued

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002	1996–2002 total
Include as eligible guaranteed loan program lenders any wholly owned subsidiaries of publicly held holding companies which, as of the enactment date, act as finance companies. (Assumes new loans affected):									
Budget authority	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Outlays	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
When determining a holder's primary consumer credit function exempt any loans held as trustee or in a trust capacity for the benefit of a third party. (Assumes new loans affected):									
Budget authority	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Outlays	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Change the requirement for lender-of-last resort [LLR] loans. Borrowers would only have to have one lender refusal to be eligible for an LLR loan and all LLR applications must be processed within 15 days. Currently borrowers must have two lender refusals and the process can take 30 days. (Assumes all new loans affected):									
Budget authority	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Outlays	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Exempt lenders with less than $5 million in student loan holdings from the annual audit requirements:									
Budget authority	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Outlays	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Amend the current definition of eligible proprietary school revenue sources. Under current law, proprietary schools must have at least 15 percent of their campus-based, instructional-based revenues come from non-Federal student aid sources (a.k.a. 85/15 rule). This proposal would allow proprietary schools not only to include in their calculated revenue base the campus-based instructional-based resources but also revenues from training programs provided on a contractural basis under Federal, State, or local programs or with business and industry. (Assumes all new loans affected):									
Budget authority	.....	.....	.....	.....	.....	.....	.....	.....	.....
Outlays	.....	.....	.....	.....	.....	.....	.....	.....	.....
Allow student loan borrowers with direct student loans the option to consolidate any direct loans into a guaranteed consolidated loan. (Assumes both outstanding and new loans affected):									
Budget authority	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Outlays	.....	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

Eliminate the authority for the Secretary of Education to offer direct consolidation loans to current and future guaranteed student loan borrowers. (Assumes both outstanding and new loans affected):									
Budget authority	.....	10	(*)	5	10	(*)	(*)	(*)	25
Outlays	.....	5	−5	5	10	5	(*)	(*)	20
Eliminate the Federal subsidy to schools (and alternate originators) for a loan origination fee. This fee is set at $10 for school originators for academic year 1994–95 is assumed to be adjusted by the Secretary in the outyears and set by contract for alternate originators. (Assumes all new loans affected):									
Budget authority	.....	−70	−110	−125	−150	−155	−160	−170	−940
Outlays	.....	−45	−95	−120	−140	−150	−160	−170	−880
Net programmatic interactions among all program changes listed above:									
Budget authority	.....	5	−50	−80	−85	−115	−110	−110	−545
Outlays	.....	−5	−50	−75	−95	−110	−105	−115	−555
Total changes including programmatic interactions:									
Budget authority	.....	−1,709	−1,144	−1,330	−1,553	−1,601	−1,671	−1,746	−10,754
Outlays	.....	−1,393	−1,126	−1,261	−1,463	−1,589	−1,654	−1,722	−10,208

* Insignificant costs.

Notes:

1. Estimates use the programmatic and economic assumptions of the budget resolution and assume enactment by November 15, 1995, and implementation on January 1, 1996, unless otherwise noted.

2. Each proposed program change listed is estimated separately from the resolution baseline. The net programmatic interactions take into account all the proposed changes simultaneously. The calculated interactions among the various subcomponents of the proposal may be significantly different.

3. For most years of the life of loans disbursed between 1995 and 2000, the CBO projection for the fiscal-year average 91-day Treasury bill discount rate is 5.1 percent. The rate used to discount the cash flows is the CBO projection of the 10-year Treasury bond rate, which ranged between 7.8 percent in 1995 to 6.7 percent in 2000 and beyond.

4. For the resolution baseline projections the direct administrative costs of the direct loan program are calculated on a net present value basis over the life of the loan and included in the direct loan program account in the year the loans are disbursed. As a result of this change, the resolution baseline projections assume that the current section 458 administrative cost capped mandatory levels have been adjusted downward to the budget authority levels shown for the Direct Loan Mandatory Administrative Cost Account. All estimates of programmatic changes to section 458 are calculated relative to the section 458 levels assumed in the budget resolution.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee's oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment into law of committees recommendations will have no inflationary impact on prices and costs in the operation of the national economy. It is the judgment of the committee that the inflationary impact of this legislation as a component of the Federal budget is negligible.

GOVERNMENT REFORM AND OVERSIGHT

With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of the committee's recommendations.

COMMITTEE ESTIMATE

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the committee of the costs which would be incurred in carrying out the committee's recommendations. However, clause 7(d) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

APPLICATION OF LAW TO LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. To the extent that the statutes effected by these budget recommendations apply to Congress, these recommendations would also apply to Congress.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates; the bill does not contain any unfunded mandates.

TITLE VI—COMMITTEE ON INTERNATIONAL RELATIONS

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 28, 1995.

Hon. JOHN KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR JOHN: I have the honor to transmit to you, with this letter, the recommendations of the Committee on International Relations adopted in response to the instructions of the House as part of the concurrent resolution on the budget.

It has been a pleasure to work with you during the stages leading up the great challenge now before us: the adoption of the reconciliation bill.

Good luck in the days ahead. You may be assured of my continued support.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.

Enclosures.

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PURPOSE AND SUMMARY—BACKGROUND AND NEED FOR LEGISLATION

Sec. 6001. Recovery of costs of health care services for personnel of the Foreign Service of the United States and other eligible individuals

The committee adopted section 6001, relating to the recovery of the cost of health care services, first, because it had been approved, in a slightly different form, by the committee during its consideration of Division B of H.R. 1561, the American Overseas Interests Act, and by the House when it passed H.R. 1561 on June 8, 1995.

Second, section 6001 results in savings equal to those required of the committee under its budget reconciliation instructions. Section 6001, when adopted as section 2353 of H.R. 1561, had provided that the funds raised would be directed to any Department of State

account, subject to appropriations. Section 6001, in contrast, directs that those funds be deposited in the Treasury as a miscellaneous offsetting receipt. The effective date of section 6001 is its date of enactment, whereas the effective date of section 2353 of H.R. 1561 was October 1, 1996.

The Committee on International Relations customarily achieves its reconciliation savings by mirroring changes made in the civil service retirement system in the major direct spending program under its jurisdiction, the Foreign Service retirement system. Because at the time it acted there was no consensus on the appropriate changes to be made in the civil service retirement system the committee felt it appropriate to put forward this provision as an alternative, so as to be in compliance with the instructions contained in the budget resolution.

Sec. 6002. Enactment by reference of Division A of H.R. 1561

Division A of H.R. 1561, the Foreign Affairs Agencies Consolidation Act of 1995 reforms the foreign affairs institutions that have grown up over the last 40 years and adapts them to the requirements of the post-cold war era.

Division A abolishes three agencies that effectively promoted U.S. interests during the cold war—the Arms Control and Disarmament Agency, the U.S. Information Agency, and the Agency for International Development—but whose functions can now be carried out more efficiently by a strengthened and reorganized Department of State. The consolidation of these agencies into the Department of State will improve the coordination of U.S. foreign policy under the leadership of the Secretary of State. It will also facilitate a more rational downsizing of the foreign affairs budget by encouraging elimination of overlapping and obsolete functions.

Division A seeks to provide maximum flexibility to the executive branch to carry out the consolidation of foreign affairs agencies and the reorganization of the Department of State. By resisting the temptation to dictate the precise structure that is to emerge from the reorganization, the committee intends to engage the expertise of the executive branch in the reorganization and downsizing process.

HEARINGS

In the context of the committee's work on the American Overseas Interests Act, Division A of which is included in the committee's reconciliation recommendations, the committee held the following hearings:

On April 4, l995, the full committee held a hearing on consolidation of the foreign affairs agencies.

Witnesses for this hearing included: Under Secretary Richard Moose, Department of State; Administrator Brian Atwood, Agency for International Development; Director Joseph Duffy, U.S. Information Agency; and Director John Holum, Arms Control and Disarmament Agency.

On May 9, 1995, the full committee held a hearing on H.R. 1561, with particular emphasis on consolidation of the foreign affairs agencies.

Witnesses for this hearing included: Under Secretary Richard Moose, Department of State; Administrator Brian Atwood, Agency for International Development; Director Joseph Duffy, U.S. Information Agency; and Deputy Director Ralph Earle II, U.S. Arms Control and Disarmament Agency

SECTION-BY-SECTION ANALYSIS

Sec. 6001. Recovery of costs of health care services for personnel of the Foreign Service of the United States and other eligible individuals

This section amends section 904 of the Foreign Service Act of 1980 to authorize the Department of State to recover the costs incurred by the Department for health care services provided to eligible employees and their families and to other eligible individuals. This would permit the Department to recover such costs from third-party payers. In addition, the Department would be able to collect fees from other persons who are provided care in Department facilities.

The Department's estimate of operating costs for overseas health units for fiscal year 1993 was approximately $19 million (including salaries, post entitlements, regional medical officer travel, and prescription medicines) and the Department contributes over $15 million per year toward health insurance premiums for insurance that is not consistently used by its overseas employees. This provision would rectify this situation, and follows up on a recommendation by the inspector general of the Department of State.

Section 6001(a)(1) amends section 904(a) of the Foreign Service Act to permit the Secretary to designate certain persons who are not U.S. Government employees or family members to receive health care services abroad on a fee-for-service basis.

Section 6001(a)(2) amends section 904(d) of the Foreign Service Act, which authorizes the Secretary to pay the cost of medical treatment for eligible individuals. The proposed amendment would make section 904(d) subject to a new fee-for-service program described in new subsections 904 (g) and (h).

Section 6001(a)(3) adds new subsections (g) and (h) of section 904 of the Foreign Service Act, as described below.

Paragraph (1) of subsection (g) authorizes the Department to recover the cost of health care services incurred by the Department from third-party payers to the same extent that the covered beneficiary would be eligible to receive reimbursement from the third-party payer for such expenses.

Paragraphs (2) and (3) of subsection (g) provide that if the insurance contract requires a deductible or copayment, the Department absorbs that cost so that neither a covered employee nor the third-party payer is required to pay the deductible or copayment amount.

Paragraphs (4) and (5) of subsection (g) recognize the unique circumstances at Government health care facilities at posts abroad. Paragraph (4) would prohibit third-party payers from refusing to reimburse the Department based on provisions in the insurance contact excluding from coverage care provided by a government entity, to an individual who is not required to pay a deductible or copayment or by a provider with which the third-party payer has

no participation agreement. Paragraph (5) provides that no contractual provision can prevent recovery by the United States under this section. This provision will insure coverage for care provided by registered nurses, whether or not they are under the direct supervision of a physician.

Paragraph (6) of subsection (g) subrogates the United States to the beneficiary's rights against the third-party payer.

Paragraphs (7) and (8) of subsection (g) direct the Secretary to prescribe regulations for the implementation of these subsections, including regulations regarding the computation of reasonable costs of health services. A third-party payer is permitted to review an employee's health records to verify that the care for which reimbursement is sought was provided, and to verify that the care meets the criteria of the insurance contract (except for those criteria affected by paragraphs (2) and (4) of subsection (g)).

Paragraph (9) of subsection (g) requires that Department to deposit any amounts collected under subsections (g) or (h) of section 904 in the Treasury as a miscellaneous offsetting receipt.

Paragraph (10) of subsection (g) defines terms "covered beneficiary", "services", and "third party payer".

Section 904(h) provides that in the case of a person who is not a "covered beneficiary" as that term is used in this section, but for whom the Department incurs costs for health care services, the Department may collect the reasonable costs of services provided, and may take appropriate legal actions to settle claims.

Section 6001(b) provides that the authorities of the section shall be effective beginning on the date of enactment of the section.

As the authorities granted by this section are discretionary, the Secretary need not exercise them immediately, but should exercise them as soon as practicable so as to generate the greatest possible savings to the Government.

Sec. 6002. Enactment into law of Division A of H.R. 1561

This section enacts into law Division A of H.R. 1561 of the 104th Congress, as passed by the House of Representatives on June 8, 1995. H.R. 1561 is described in more detail below.

TITLE I—GENERAL PROVISIONS

Sec. 101—Short title

Sets forth the short title of this division, the "Foreign Affairs Agencies Consolidation Act of 1995."

Sec. 102—Congressional findings

Sets forth congressional findings that the United States must remain engaged in international affairs; that the U.S. budget deficit requires streamlining of government programs and activities, including foreign programs and activities; and that, as part of the downsizing of the international affairs budget, the proliferation of foreign affairs agencies that occurred during the cold war must be reversed and the leadership of the Secretary of State strengthened.

Sec. 103—Purposes

States that the purposes of the division are to consolidate and reinvent the foreign affairs agencies of the United States within the Department of State; provide for the reorganization of the Department of State; strengthen the coordination of U.S. foreign policy; and to abolish not later than March 1, 1997, the U.S. Arms Control and Disarmament Agency [ACDA], the U.S. Information Agency [USIA], the International Development Cooperation Agency, and the Agency for International Development [AID].

Sec. 104—Definitions

Defines terms used within this division.

TITLE II—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 201—Effective date

Provides that the amendments made by this title (other than section 221) shall take effect on March 1, 1997, or on an earlier date announced by the President in the Federal Register, which date may be not earlier than 60 calendar days (excluding any days on which either House of Congress is not in session because of a sine die adjournment) after the President has submitted a reorganization plan to the appropriate committees of Congress pursuant to section 221. Section 221 shall take effect on the date of enactment.

Sec. 202—References in title

States that, except as otherwise provided, the references in this title to provisions of law shall be considered references to the Arms Control and Disarmament Act.

CHAPTER 2—ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

Sec. 211—Abolition of United States Arms Control and Disarmament Agency

Abolishes ACDA.

Sec. 212—Transfer of functions to Secretary of State

Transfers to the Secretary of State all functions of the Director of ACDA and of ACDA.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

Sec. 221—Reorganization plan

Provides that, not later than March 1, 1996, the President, in consultation with the Secretary of State and the Director of ACDA, shall submit a reorganization plan to the appropriate committees of Congress. The plan is to provide for the abolition of ACDA; the

transfer of ACDA's functions and personnel to the Department of State; and the consolidation, reorganization, and streamlining of the Department of State upon the transfer in order to carry out the transferred functions.

The plan is to identify the functions of ACDA that are to be transferred; the personnel and positions of ACDA and the Department that are to be transferred, separated, or eliminated; specify the consolidations and reorganizations within the Department that will be required; specify the funds available to ACDA that will be transferred; specify the proposed allocations within the Department of unexpended funds that are to be transferred from ACDA; and specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of ACDA.

The plan is to provide for an appropriate number of assistant secretaries of state to carry out the functions transferred to the Department.

The committee notes that ACDA's single-mission focus has permitted the agency to develop over the years unique expertise and experience among its personnel in arms control matters. The Department of State has needed to develop similar expertise within the Bureau of Political-Military Affairs and elsewhere. However, the personnel system of the Department, which emphasizes the development of broad expertise among the Department's employees so as to equip them to effectively carry out the Department's many missions, has necessarily limited the Department's ability to match the training and experience in arms control matters that is found within ACDA.

The committee believes that it would be detrimental to the interests of the United States for the expertise and experience of ACDA personnel to be lost as a result of the consolidation of ACDA with the Department of State. Accordingly, the committee would expect the reorganization plan submitted pursuant to section 221 to be designed, to the maximum extent feasible, to ensure that the unique expertise and experience of ACDA personnel is not lost to the U.S. Government as a result of the consolidation.

Sec. 222—Principal officers

Amends the State Department Basic Authorities Act to establish the new position within the Department of State of Coordinator for Arms Control and Disarmament, with the rank and status of Ambassador-at-Large. The Coordinator heads the Bureau of Arms Control and Disarmament and reports directly to the Secretary of State. In addition, an amendment to the National Security Act of 1947 provides that the Coordinator shall serve as a statutory advisor to the National Security Council.

A transition provision provides that the President is authorized to appoint as the Coordinator for Arms Control and Disarmament the Director of ACDA, or other officials of ACDA or the Department of State confirmed by the Senate, to serve in an acting capacity until the President nominates and the Senate confirms a permanent appointee.

CHAPTER 4—CONFORMING AMENDMENTS

Sec. 241—References

Provides that any reference in any statute or other official document or proceeding to the Director of ACDA shall be deemed to refer to the Secretary of State, and any reference to ACDA shall be deemed to refer to the Department of State.

Sec. 242—Repeal of establishment of agency

Repeals section 21 of the Arms Control and Disarmament Act (relating to the establishment of ACDA).

Sec. 243—Repeal of positions and offices

Repeals provisions of the Arms Control and Disarmament Act establishing positions and offices within ACDA.

Sec. 244—Transfer of authorities and functions under the Arms Control and Disarmament Act to the Secretary of State

Transfers authorities and functions of ACDA and the Director of ACDA to the Department of State and to the Secretary of State.

Sec. 245—Conforming amendments

Makes conforming amendments to other provisions of the Arms Control and Disarmament Act.

TITLE III—UNITED STATES INFORMATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 301—Effective date

Provides that the amendments made by this title (other than section 321) shall take effect on March 1, 1997, or on an earlier date announced by the President in the Federal Register, which date may be not earlier than 60 calendar days (excluding any days on which either House of Congress is not in session because of a sine die adjournment) after the President has submitted a reorganization plan to the appropriate committees of Congress pursuant to section 321. Section 321 shall take effect on the date of enactment.

CHAPTER 2—ABOLITION OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

Sec. 311—Abolition of United States Information Agency

Abolishes USIA.

Sec. 312—Transfer of functions to Secretary of State

Transfers to the Secretary of State all functions of the Director of USIA and of USIA.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

Sec. 321—Reorganization plan

Provides that, not later than March 1, 1996, the President, in consultation with the Secretary of State and the Director of USIA, shall submit a reorganization plan to the appropriate committees of Congress. The plan is to provide for the abolition of USIA; the transfer of USIA's functions and personnel to the Department of State; and the consolidation, reorganization, and streamlining of the Department of State upon the transfer in order to carry out the transferred functions.

The plan is to identify the functions of USIA that are to be transferred; the personnel and positions of USIA and the Department that are to be transferred, separated, or eliminated; specify the consolidations and reorganizations within the Department that will be required; specify the funds available to USIA that will be transferred; specify the proposed allocations within the Department of unexpended funds that are to be transferred from USIA; and specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of USIA.

The plan is to provide for an appropriate number of Aassistant Secretaries of State to carry out the functions transferred to the Department.

Sec. 322—Principal officers

Amends the State Department Basic Authorities Act to establish the new positions within the Department of State of Under Secretary for Public Diplomacy, Assistant Secretary for Academic Programs and Cultural Exchanges, and Assistant Secretary for Information, Policy, and Programs. Both Assistant Secretaries shall report to the Under Secretary.

Transition provisions provide that the President is authorized to appoint to each of these positions the Director of USIA, or other officials of USIA or the Department of State confirmed by the Senate, to serve in an acting capacity until the President nominates and the Senate confirms permanent appointees.

CHAPTER 4—CONFORMING AMENDMENTS

Sec. 341—References

Provides that any reference in any statute or other official document or proceeding to the Director of USIA shall be deemed to refer to the Secretary of State, and any reference to USIA shall be deemed to refer to the Department of State.

Sec. 342—Abolition of Office of Inspector General of the U.S. Information Agency and transfer of functions to Office of Inspector General of the Department of State

Abolishes the Office of Inspector General of USIA, and transfers the functions of that Office to the Office of Inspector General of the Department of State.

Sec. 343—Amendments to title 5

Makes conforming amendments to title 5 of the United States Code.

Sec. 344—Amendments to United States Information and Educational Exchange Act of 1948

Makes conforming amendments to the U.S. Information and Educational Exchange Act of 1948.

Sec. 345—Amendments to the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act)

Makes conforming amendments to the Mutual Educational and Cultural Exchange Act of 1961.

Sec. 346—International broadcasting activities

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal years 1994 and 1995, and to title 5 of the United States Code.

Sec. 347—Television broadcasting to Cuba

Makes conforming amendments to the Television Broadcasting to Cuba Act.

Sec. 348—Radio broadcasting to Cuba

Makes conforming amendments to the Radio Broadcasting to Cuba Act.

Sec. 349—National endowment for democracy

Makes conforming amendments to Public Law 98–164.

Sec. 350—United States Scholarship Program for Developing Countries

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal years 1986 and 1987.

Sec. 351—Fascell Fellowship Board

Makes conforming amendments to the Fascell Fellowship Act.

Sec. 352—National Security Education Board

Makes conforming amendments to the Intelligence Authorization Act, fiscal year 1992.

Sec. 353—Center for Cultural and Technical Interchange Between North and South

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal years 1992 and 1993.

Sec. 354—East-West center

Makes conforming amendments to the Mutual Security Act of 1960.

Sec. 355—Mission of the Department of State

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal year 1979.

Sec. 356—Consolidation of administrative services

Makes conforming amendments to the State Department Basic Authorities Act of 1956.

Sec. 357—Grants

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal years 1992 and 1993.

Sec. 358—Ban on domestic activities

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal years 1986 and 1987.

Sec. 359—Conforming repeal to the Arms Control and Disarmament Act

Makes conforming amendment to the Arms Control and Disarmament Act.

Sec. 360—Repeal relating to procurement of legal services

Makes conforming amendment to the State Department Basic Authorities Act of 1956.

Sec. 361—Repeal relating to payment of subsistence expenses

Makes conforming amendment to the State Department Basic Authorities Act of 1956.

Sec. 362—Conforming amendment to the SEED Act

Makes conforming amendment to the Support for East European Democracies Act of 1989.

Sec. 363—International Cultural and Trade Center Commission

Makes conforming amendments to the Federal Triangle Development Act.

Sec. 364—Foreign Service Act of 1980

Makes conforming amendments to the Foreign Service Act of 1980.

Sec. 365—Au Pair Programs

Makes conforming amendment to the Eisenhower Exchange Fellowship Act of 1990.

Sec. 366—Exchange program with countries in transition from totalitarianism to democracy

Makes conforming amendments to the National and Community Service Act of 1990.

Sec. 367—Edmund S. Muskie Fellowship Program

Makes conforming amendments to the Foreign Relations Authorization Act, fiscal years 1992 and 1993.

Sec. 368—Implementation of Convention on Cultural Property

Makes conforming amendment to the Convention on Cultural Property Implementation Act.

Sec. 369—Mike Mansfield Fellowships

Makes conforming amendment to the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

TITLE IV—AGENCY FOR INTERNATIONAL DEVELOPMENT

CHAPTER 1—GENERAL PROVISIONS

Sec. 401—Effective Date

Provides that the amendments made by this title (other than section 421) shall take effect on March 1, 1997, or on an earlier date announced by the President in the Federal Register, which date may be not earlier than 60 calendar days (excluding any days on which either House of Congress is not in session because of a sine die adjournment) after the President has submitted a reorganization plan to the appropriate committees of Congress pursuant to section 421. Section 421 shall take effect on the date of enactment.

Sec. 402—References in title

States that, except as otherwise provided, the references in this title to provisions of law shall be considered references to the Foreign Assistance Act of 1961.

CHAPTER 2—ABOLITION OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE INTERNATIONAL DEVELOPMENT COOPERATION AGENCY AND TRANSFER OF FUNCTIONS TO SECRETARY OF STATE

Sec. 411—Abolition of Agency for International Development and International Development Cooperation Agency

Abolishes AID and the International Development Cooperation Agency.

Sec. 412—Transfer of functions to Secretary of State

Transfers to the Secretary of State all functions of the Administrator of AID and of AID, and all functions of the Director of the International Development Cooperation Agency and of the International Development Cooperation Agency.

CHAPTER 3—REORGANIZATION OF DEPARTMENT OF STATE RELATING TO FUNCTIONS TRANSFERRED UNDER THIS TITLE

Sec. 421—Reorganization plan

Provides that, not later than March 1, 1996, the President, in consultation with the Secretary of State and the Administrator of AID, shall submit a reorganization plan to the appropriate committees of Congress. The plan is to provide for the abolition of AID; the transfer of AID's functions and personnel to the Department of State; and the consolidation, reorganization, and streamlining of the Department of State upon the transfer in order to carry out the transferred functions.

The plan is to identify the functions of AID that are to be transferred; the personnel and positions of AID and the Department

that are to be transferred, separated, or eliminated; specify the consolidations and reorganizations within the Department that will be required; specify the funds available to AID that will be transferred; specify the proposed allocations within the Department of unexpended funds that are to be transferred from AID; and specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of AID.

The plan is to provide for an appropriate number of Assistant Secretaries of State to carry out the functions transferred to the Department.

The committee intends that AID be transferred en bloc into the Department of State, reporting to the Under Secretary for Development. The committee reviewed the option of dividing AID among the Department's regional bureaus and specifically rejected that option.

Sec. 422—Principal officers

Amends the State Department Basic Authorities Act to establish the new position within the Department of State of Under Secretary for Development and Economic Affairs. A transition provision provides that the President is authorized to appoint to this position the Administrator of AID, or another official of AID or the Department of State confirmed by the Senate, to serve in an acting capacity until the President nominates and the Senate confirms a permanent appointee.

The committee intends the Under Secretary for Development to be responsible for the administration of funds under the Sustainable Development, Development Fund for Africa, SEED, FREEDOM Support, ESF, Disaster, Housing Guarantee, Small and Micro-enterprise, Public Law–480 titles II & III, American Schools and Hospitals Abroad and International Fund for Ireland accounts. The committee intends this list of accounts to be the minimum number of accounts administered by the Under Secretary for Development. Should the administration wish, the committee would welcome the movement of other foreign assistance programs under the Under Secretary's administration.

CHAPTER 4—CONFORMING AMENDMENTS

Sec. 441—References

Provides that any reference in any statute or other official document or proceeding to the Administrator of AID shall be deemed to refer to the Secretary of State, and any reference to AID shall be deemed to refer to the Department of State.

Sec. 442—Abolition of Office of Inspector General of the Agency for International Development and transfer of functions to Office of Inspector General of the Department of State

Abolishes the Office of Inspector General of AID, and transfers the functions of that Office to the Office of Inspector General of the Department of State.

Sec. 443—Abolition of Chief Financial Officer of the Agency for International Development and transfer of functions to Chief Financial Officer Department of State

Abolishes the Office of Chief Financial Officer of AID, and transfers the functions of that Office to the Office of Chief Financial Officer of the Department of State.

Sec. 444—Amendments to title 5, United States Code

Makes conforming amendments to title 5 of the United States Code.

Sec. 445—Public Law 480 Program

Makes conforming amendment to the Agricultural Trade Development and Assistance Act of 1954.

TITLE V—TRANSITION

Sec. 501—Reorganization authority

Authorizes the Secretary of State to allocate or reallocate functions transferred to the Department among the officers of the Department, and to establish, consolidate, alter, or discontinue organizational entities within the Department as necessary to carry out any reorganization under this division. This authority does not extend to the abolition of organizational entities or offices established by law, or to the alteration of any delegation of functions required by law.

A reorganization plan prepared pursuant to any title of this division may not have the effect of creating a new department or agency, continuing functions beyond the period authorized by law, authorizing the exercise of functions not otherwise authorized by law, or increasing the term of an office beyond that provided by law. Any such reorganization plan shall provide for a 20-percent reduction applicable to each of the first 2 fiscal years after implementation of such plan in the total level of expenditures for the functions transferred to the Department of State from the amounts appropriated for such transferred functions for fiscal year 1995.

Sec. 502—Transfer and allocation of appropriations and personnel

Provides that personnel, assets, liabilities, contracts, property, records, and unexpended appropriations balances of the abolished agencies shall be transferred to the Secretary of State. Unexpended and unobligated funds that are so transferred shall be used only for the purposes for which they were originally authorized and appropriated. When an agency is abolished, the limit on the number of members of the foreign service that may be employed by that agency shall be added to the limit for the Department of State.

Sec. 503—Incidental transfers

The Director of the Office of Management and Budget, in consultation with the Secretary of State, is authorized to make such incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations as may be necessary to carry out this division.

Sec. 504—Effect on personnel

Personnel holding executive schedule positions who are transferred to the Department of State shall continue to be compensated at a rate not less than that of their previous position. Positions whose incumbents are appointed by the President and confirmed by the Senate, the functions of which are transferred, shall terminate upon the transfer.

Employees in the career Senior Executive Service transferred pursuant to any title of this division shall be placed in a position at the Department of State comparable to the position previously held by the employee. Transferring employees shall be provided reasonable notice of new positions and assignments prior to their transfer pursuant to any title of this division. Foreign Service personnel transferred to the Department of State pursuant to any title of this division shall be eligible for any assignment open to Foreign Service personnel within the Department for which they are qualified.

Sec. 505—Savings provisions

All orders, rules, regulations, agreements, contracts, and other administrative actions of the agencies abolished under this division shall remain in effect according to their terms. Pending proceedings shall not be affected by the transfer of functions of the abolished agencies to the Department of State.

Sec. 506—Property and facilities

The Secretary of State shall review the property and facilities transferred to the Department to determine whether they are required by the Department.

Sec. 507—Authority of Secretary to facilitate transition

The Secretary of State is authorized to utilize the services of employees and the funds of the agencies that are to be abolished pursuant to this division in order to facilitate the transfer of functions to the Department.

Sec. 508—Recommendations for additional conforming amendments

The Congress urges the President to submit recommendations for additional technical and conforming amendments to reflect the changes made by this division.

Sec. 509—Final report

Not later than October 1, 1998, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a final accounting of the finances of the abolished agencies.

Sec. 510—Transfer of function

Any determination as to whether a transfer of function carried out under this division constitutes a transfer of function for purposes of subchapter I of chapter 35 of title 5 of the United States Code shall be made without regard to whether the function trans-

ferred is identical to functions already performed by the receiving agency.

Sec. 511—Severability

If any provision of this division is held invalid, the remainder of the division shall not be affected.

TITLE VI—REORGANIZATION OF UNITED STATES EXPORT PROMOTION AND TRADE ACTIVITIES

Sec. 601—Plan for reorganization of United States export promotion and trade activities

The Trade Policy Coordinating Committee shall submit a report to the Committee on International Relations of the House and the Committee on Foreign Relations of the Senate not later than March 1, 1996, detailing what steps are being taken and what steps should be taken to improve accessibility and coordination among the trade promotion agencies of the U.S. Government.

The report shall identify such matters as the function and budget of all U.S. Government agencies with some responsibility for trade promotion, the amount of exports directly generated by each such agency, and areas where greater interoperability and efficiencies could be achieved. The report shall include a plan to reorganize the trade and export promotion agencies, with any necessary legislative changes, in order to more efficiently promote trade and reduce costs.

CHANGES IN EXISTING LAW MADE BY TITLE VI OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956

* * * * * * *

TITLE I—BASIC AUTHORITIES GENERALLY

ORGANIZATION OF THE DEPARTMENT OF STATE

SECTION 1. (a) * * *

(b) UNDER SECRETARIES.—[There]

(1) IN GENERAL.—There shall be in the Department of State not more than 5 Under Secretaries of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State an Under Secretary for Public Diplomacy who shall have responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation

of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.

(3) UNDER SECRETARY FOR DEVELOPMENT AND ECONOMIC AFFAIRS.—There shall be in the Department of State an Under Secretary for Development and Economic Affairs who shall assist the Secretary and the Deputy Secretary in the formation and implementation of United States policies and activities concerning international development and economic affairs.

(c) ASSISTANT SECRETARIES.—

(1) * * *

* * * * * * *

(3) ASSISTANT SECRETARY FOR ACADEMIC PROGRAMS AND CULTURAL EXCHANGES.—There shall be in the Department of State an Assistant Secretary for Academic Programs and Cultural Exchanges who shall report to the Under Secretary for Public Diplomacy.

(4) ASSISTANT SECRETARY FOR INFORMATION, POLICY, AND PROGRAMS.—There shall be in the Department of State an Assistant Secretary for Information, Policy, and Programs who shall report to the Under Secretary for Public Diplomacy.

* * * * * * *

(e) OTHER SENIOR OFFICIALS.—In addition to officials of the Department of State who are otherwise authorized to be appointed by the President, by and with the advice and consent of the Senate, and to be compensated at level IV of the Executive Schedule of section 5315 of title 5, United States Code, four other such appointments are authorized.

(5) COORDINATOR FOR ARMS CONTROL AND DISARMAMENT.—

(A) There shall be within the office of the Secretary of State a Coordinator for Arms Control and Disarmament (hereafter in this paragraph referred to as the "Coordinator" who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary of State.

(B)(i) The Coordinator shall perform such duties and exercise such power as the Secretary of State shall prescribe.

(ii) The Coordinator shall be responsible for arms control and disarmament matters. The Coordinator shall head the Bureau of Arms Control and Disarmament.

(C) The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or, if the Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.

* * * * * * *

ADMINISTRATIVE SERVICES

SEC. 23. (a) AGREEMENTS.—Whenever the head of any Federal agency performing any foreign affairs functions [(including, but not limited to, the Department of State, the International Communication Agency, the Agency for International Development, and the Arms Control and Disarmament Agency)] determines that administrative services performed in common by the Department of State and one or more [other such agencies] *other Federal agencies* may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.

* * * * * * *

SEC. 26. (a) * * *

[(b) The authority available to the Secretary of State under this section shall be available to the Director of the United States Information Agency, the chairman of the Board for International Broadcasting, and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.]

* * * * * * *

SEC. 32. The Secretary of State may pay, without regard to section 5702 of title 5, United States Code, subsistence expenses of (1) special agents of the Department of State who are on authorized protective missions, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status. [The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.]

* * * * * * *

SECTION 101 OF THE NATIONAL SECURITY ACT OF 1947

NATIONAL SECURITY COUNCIL

SEC. 101. (a) * * *

* * * * * * *

(i) The Coordinator for Arms Control and Disarmament may, in the role of advisor to the National Security Council on arms control and disarmament matters, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

ARMS CONTROL AND DISARMAMENT ACT

AN ACT To establish a United States Arms Control and Disarmament Agency.

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

TITLE I—SHORT TITLE, PURPOSE, AND DEFINITIONS

SHORT TITLE

SECTION 1. This Act may be cited as the "Arms Control and Disarmament Act".

[PURPOSE

[SEC. 2. An ultimate goal of the United States is a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. It is the purpose of this Act to provide impetus toward this goal by creating a new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament.

[Arms control, nonproliferation, and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control, nonproliferation, and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field. This organization must have such a position within the Government that it can provide the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control, nonproliferation, and disarmament policy, and can assess the effect of these recommendations upon our foreign policies, our national security policies, and our economy.

[This organization must have the capacity to provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control, nonproliferation, and disarmament policy must be based. It shall have the authority, under the direction of the President and the Secretary of State, to carry out the following primary functions:

[(1) The preparation for and management of United States participation in international negotiations and implementation fora in the arms control and disarmament field.

[(2) When directed by the President, the preparation for, and management of, United States participation in international negotiations and implementation fora in the nonproliferation field.

[(3) The conduct, support, and coordination of research for arms control, nonproliferation, and disarmament policy formulation.

[(4) The preparation for, operation of, or, as appropriate, direction of, United States participation in such control systems as may become part of United States arms control, nonproliferation, and disarmament activities.

[(5) The dissemination and coordination of public information concerning arms control, nonproliferation, and disarmament.]

DEFINITIONS

SEC. 3. As used in this Act—

(a) The terms "arms control" and "disarmament" mean the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement including the necessary steps taken under such an agreement to establish an effective system of international control, or to create and strengthen international organizations for the maintenance of peace.

(b) The term "Government agency" means any executive department, commission, agency, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of Government.

[(c) The term "Agency" means the United States Arms Control and Disarmament Agency.]

(c) The term "Department" means the Department of State.

(d) The term "Secretary" means the Secretary of State.

TITLE II—ORGANIZATION

[UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

[SEC. 21. There is hereby established an agency to be known as the "United States Arms Control and Disarmament Agency".]

[DIRECTOR

[SEC. 22. (a) APPOINTMENT.—The Agency shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.

[(b) DUTIES.—(1) The Director shall serve as the principal adviser to the Secretary of State, the National Security Council, and the President and other executive branch Government officials on

matters relating to arms control, nonproliferation, and disarmament. In carrying out his duties under this Act, the Director, under the direction of the President and the Secretary of State, shall have primary responsibility within the Government for matters relating to arms control and disarmament, and, whenever directed by the President, primary responsibility within the Government for matters relating to nonproliferation.

[(2) The Director shall attend all meetings of the National Security Council involving weapons procurement, arms sales, consideration of the defense budget, and all arms control, nonproliferation, and disarmament matters.

[DEPUTY DIRECTOR

[SEC. 23. A Deputy Director of the Agency shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall have direct responsibility, under the supervision of the Director, for the administrative management of the Agency, intelligence-related activities, security, and the Special Compartmental Intelligence Facility, and shall perform such other duties and exercise such other powers as the Director may prescribe. He shall act for, and exercise the powers of, the Director during his absence or disability or during a vacancy in said office. No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Deputy Director.

[ASSISTANT DIRECTORS

[SEC. 24. Not to exceed four Assistant Directors may be appointed by the President, by and with the advice and consent of the Senate. They shall perform such duties and exercise such powers as the Director may prescribe.

[BUREAUS, OFFICES, AND DIVISIONS

[SEC. 25. The Director may establish within the Agency such bureaus, offices, and divisions as he may determine to be necessary to discharge his responsibilities pursuant to this Act, including a bureau of intelligence and information support and an office to perform legal services for the Agency.]

SCIENTIFIC AND POLICY ADVISORY COMMITTEE

SEC. 26. (a) ESTABLISHMENT.—(1) The President may appoint a Scientific and Policy Advisory Committee (in this section referred to as the "Committee") of not to exceed 15 members, not less than eight of whom shall be scientists.

(2) The members of the Committee shall be appointed as follows:

(A) One member, who shall be a person of renown and distinction, shall be appointed by the President, by and with the advice and consent of the Senate, as Chairman of the Committee.

(B) Fourteen other members shall be appointed by the President.

(3) The Committee shall meet at least twice each year.

(b) FUNCTION.—It shall be the responsibility of the Committee to advise the President[, the Secretary of State, and the Director] *and the Secretary of State* respecting scientific, technical, and policy matters affecting arms control, nonproliferation, and disarmament.

(c) REIMBURSEMENT OF EXPENSES.—The members of the Committee may receive reimbursement of expenses only in accordance with the provisions applicable to the reimbursement of experts and consultants under section 41(d) of this Act.

(d) TERMINATION.—The Committee shall terminate two years after the date of enactment of the Arms Control and Nonproliferation Act of 1994.

(e) DEFINITION.—As used in this section, the term "scientist" means an individual who has a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who has distinguished himself or herself in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering.

PRESIDENTIAL SPECIAL REPRESENTATIVES

SEC. 27. The President may appoint, by and with the advice and consent of the Senate, Special Representatives of the President for arms control, nonproliferation, and disarmament matters. Each Presidential Special Representative shall hold the rank of ambassador. One such Representative may serve in the [Agency] *Department* as Chief Science Advisor. Presidential Special Representatives appointed under this section shall perform their duties and exercise their powers under the direction of the President and the Secretary of State[, acting through the Director]. The [Agency] *Department* shall be the Government agency responsible for providing administrative support, including funding, staff, and office space, to all Presidential Special Representatives.

PROGRAM FOR VISITING SCHOLARS

SEC. 28. A program for visiting scholars in the fields of arms control, nonproliferation, and disarmament shall be established by the [Director] *Secretary* in order to obtain the services of scholars from the faculties of recognized institutes of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the [Agency's activities] *Department's arms control, nonproliferation, and disarmament activities* an opportunity for active participation in the arms control, nonproliferation, and disarmament activities of the [Agency] *Department* and to gain for the [Agency] *Department* the perspective and expertise such persons can offer. Each fellow in the program shall be appointed for a term of one year, except that such term may be extended for a 1-year period. Fellows shall be chosen by a board consisting of the [Director] *Secretary*, who shall be the chairperson[, and all former Directors of the Agency].

TITLE III—FUNCTIONS

RESEARCH

SEC. 31. The [Director] *Secretary* is authorized and directed to exercise his powers in such manner as to insure the acquisition of a fund of theoretical and practical knowledge concerning disarmament and nonproliferation. To this end, the [Director] *Secretary* is authorized and directed, under the direction of the President, (1) to insure the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament; (2) to make arrangements (including contracts, agreements, and grants) for the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament by private or public institutions or persons; and (3) to coordinate the research, development, and other studies conducted in the fields of arms control, nonproliferation, and disarmament by or for other Government agencies in accordance with procedures established under section 35 of this Act. In carrying out his responsibilities under this Act, the [Director] *Secretary* shall, to the maximum extent feasible, make full use of available facilities, Government and private. The authority of the [Director] *Secretary* with respect to research, development, and other studies shall be limited to participation in the following insofar as they relate to arms control, nonproliferation, and disarmament:

(a) the detection, identification, inspection, monitoring, limitation, reduction, control, and elimination of armed forces and armaments, including thermonuclear, nuclear, missile, conventional, bacteriological, chemical, and radiological weapons;

(b) the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear, and other weapons;

(c) the analysis of national budgets, levels of industrial production, and economic indicators to determine the amounts spent by various countries for armaments and of all aspects of antisatellite activities;

(d) the control, reduction, and elimination of armed forces and armaments in space, in areas on and beneath the earth's surface, and in underwater regions;

(e) the structure and operation of international control and other organizations useful for arms control, nonproliferation, and disarmament;

(f) the training of scientists, technicians, and other personnel for manning the control systems which may be created by international arms control, nonproliferation, and disarmament agreements;

(g) the reduction and elimination of the danger of war resulting from accident, miscalculation, or possible surprise attack, including (but not limited to) improvements in the methods of communications between nations;

(h) the economic and political consequences of arms control, nonproliferation, and disarmament, including the problems of readjustment arising in industry and the reallocation of national resources;

(i) the arms control, nonproliferation, and disarmament implications of foreign and national security policies of the United States with a view to a better understanding of the significance of such policies for the achievement of arms control, nonproliferation, and disarmament;

(j) the national security and foreign policy implications of arms control, nonproliferation, and disarmament proposals with a view to a better understanding of the effect of such proposals upon national security and foreign policy;

(k) methods for the maintenance of peace and security during different stages of arms control, nonproliferation, and disarmament;

(l) the scientific, economic, political, legal, social, psychological, military, and technological factors related to the prevention of war with a view to a better understanding of how the basic structure of a lasting peace may be established;

(m) such related problems as the [Director] *Secretary* may determine to be in need of research, development, or study in order to carry out the provisions of this Act.

PATENTS

SEC. 32. All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information as to uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the [Director] *Secretary* may find to be necessary in the public interest) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder.

POLICY FORMULATION

SEC. 33. (a) FORMULATION.—The [Director] *Secretary* [shall prepare for the President, the Secretary of State,] *shall prepare for the President* and the heads of such other Government agencies as the President may determine, recommendations and advice concerning United States arms control, nonproliferation, and disarmament policy.

(b) PROHIBITION.—No action shall be taken pursuant to this or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.

NEGOTIATION MANAGEMENT

SEC. 34. (a) RESPONSIBILITIES.—The [Director] *Secretary*, under the direction of the President [and the Secretary of State], shall have primary responsibility for the preparation, conduct, and management of United States participation in all international negotiations and implementation fora in the field of arms control and dis-

armament and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of United States participation in international negotiations and implementation fora in the field of nonproliferation. In furtherance of these responsibilities, Special Representatives of the President appointed pursuant to section 27, shall, as directed by the President, serve as the United States Government representatives to international organizations, conferences, and activities relating to the field of nonproliferation, such as the preparations for and conduct of the review relating to the Treaty on the Non-Proliferation of Nuclear Weapons.

[(b) FUNCTIONS WITH RESPECT TO THE UNITED STATES INFORMATION AGENCY.—The Director shall perform functions pursuant to section 2(c) of the Reorganization Plan 8 of 1953 with respect to providing to the United States Information Agency official United States positions and policy on arms control, nonproliferation, and disarmament matters for dissemination abroad.]

(c) AUTHORITY.—The [Director] *Secretary* is authorized—

(1) for the purpose of conducting negotiations concerning arms control, nonproliferation, or disarmament or for the purpose of exercising any other authority given him by this Act—

(A) to consult and communicate with, or to direct the consultation and communication with, representatives of other nations or of international organizations, and

(B) to communicate in the name of the Secretary of State with diplomatic representatives of the United States in the United States or abroad;

(2) to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities; and

(3) as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.

COORDINATION

SEC. 35. The President is authorized to establish procedures to (1) assure cooperation, consultation, and a continuing exchange of information between the [Agency] *Department* and the Department of Defense, the Atomic Energy Commission, the National Aeronautics and Space Administration, and other affected Government agencies, in all significant aspects of United States arms control, nonproliferation, and disarmament policy and related matters, including current and prospective policies, plans, and programs, (2) resolve differences of opinion between the [Director] *Secretary* and such other agencies which cannot be resolved through consultation, and (3) provide for presentation to the President of recommendations of the [Director] *Secretary* with respect to such differences, when such differences involve major matters of policy and cannot be resolved through consultation.

ARMS CONTROL INFORMATION

SEC. 36. In order to assist the [Director] *Secretary* in the performance of his duties with respect to arms control, nonprolifera-

tion, and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

(A) an estimated total program cost in excess of $250,000,000, or

(B) an estimated annual program cost in excess of $50,000,000, or

(3) any other program involving technology with potential military application or weapons systems which such Government agency or the [Director] *Secretary* believes may have a significant impact on arms control, nonproliferation, and disarmament policy or negotiations,

shall, on a continuing basis, provide the [Director] *Secretary* with full and timely access to detailed information, in accordance with the procedures established pursuant to section 35 of this Act, with respect to the nature, scope, and purpose of such proposal.

VERIFICATION OF COMPLIANCE

SEC. 37. (a) IN GENERAL.—In order to ensure that arms control, nonproliferation, and disarmament agreements can be adequately verified, the [Director] *Secretary* shall report to Congress, on a timely basis, or upon request by an appropriate committee of the Congress—

(1) in the case of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States, the determination of the [Director] *Secretary* as to the degree to which the components of such agreement can be verified;

(2) in the case of any arms control, nonproliferation, or disarmament agreement that has entered into force, any significant degradation or alteration in the capacity of the United States to verify compliance of the components of such agreement;

(3) the amount and percentage of research funds expended by the [Agency] *Department* for the purpose of analyzing issues relating to arms control, nonproliferation, and disarmament verification; and

(4) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency.

(b) STANDARD FOR VERIFICATION OF COMPLIANCE.—In making determinations under paragraphs (1) and (2) of subsection (a), the [Director] *Secretary* shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

(c) RULE OF CONSTRUCTION.—Except as otherwise provided for by law, nothing in this section may be construed as requiring the dis-

closure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control, nonproliferation, and disarmament agreements.

(d) PARTICIPATION OF THE [AGENCY] *DEPARTMENT*.—In order to ensure adherence of the United States to obligations or commitments undertaken in arms control, nonproliferation, and disarmament agreements, and in order for the [Director] *Secretary* to make the assessment required by section 51(a)(5), the [Director] *Secretary*, or the [Director's] *Secretary's* designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on United States adherence to obligations undertaken in arms control, nonproliferation, or disarmament agreements.

NEGOTIATING RECORDS

SEC. 38. (a) PREPARATION OF RECORDS.—The [Director] *Secretary* shall establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United States is a party and which was under negotiation or in force on or after January 1, 1990, which shall include classified and unclassified materials such as instructions and guidance, position papers, reporting cables and memoranda of conversation, working papers, draft texts of the agreement, diplomatic notes, notes verbal, and other internal and external correspondence.

(b) NEGOTIATING AND IMPLEMENTATION RECORDS.—In particular, the [Director] *Secretary* shall establish and maintain a negotiating and implementation record for each such agreement, which shall be comprehensive and detailed, and shall document all communications between the parties with respect to such agreement. Such records shall be maintained both in hard copy and magnetic media.

(c) PARTICIPATION OF [AGENCY] *DEPARTMENT PERSONNEL*.—In order to implement effectively this section, the [Director] *Secretary* shall ensure that [Agency] *Department* personnel participate throughout the negotiation and implementation phases of all arms control, nonproliferation, and disarmament agreements.

COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES

SEC. 39. Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control, nonproliferation, and disarmament issues, the [Director] *Secretary* shall provide to the Congress not later than June 30 of each year a report setting forth—

(1) a comprehensive list of studies relating to arms control, nonproliferation, and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

(2) a brief description of each such study.

This report shall be unclassified, with a classified addendum if necessary.

TITLE IV—GENERAL PROVISIONS

[GENERAL AUTHORITY

[SEC. 41. In the performance of his functions, the Director is authorized to—

[(a) utilize or employ the services, personnel, equipment, or facilities of any other Government agency, with the consent of the agency concerned, to perform such functions on behalf of the Agency as may appear desirable. It is the intent of this section that the Director rely upon the Department of State for general administrative services in the United States and abroad to the extent agreed upon between the Secretary of State and the Director. Any Government agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Director, without reimbursement, supplies and equipment other than administrative supplies or equipment. Transfer or receipt of excess property shall be in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended;

[(b) appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities, appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Director ensures that—

[(1) any employee who is appointed under this exception is not paid at a rate—

[(A) in excess of the rate payable for positions of equivalent difficulty or responsibility, or

[(B) exceeding the maximum rate payable for grade 15 of the General Schedule; and

[(2) the number of employees appointed under this exception shall not exceed 10 percent of the Agency's full-time-equivalent ceiling.

[(c) enter into agreements with other Government agencies, including the military departments through the Secretary of Defense, under which officers or employees of such agencies may be detailed to the Agency for the performance of service pursuant to this Act without prejudice to the status or advancement of such officers or employees within their own agencies;

[(d) procure services of experts and consultants or organizations thereof, including stenographic reporting services, as authorized by section 3109 of title 5 of the United States Code, and to pay in connection therewith travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from their homes or regular places of business, as authorized by section 5703 of such title: *Provided,* That no such individual shall be employed for more than 130 days in any fiscal year unless the President cer-

tifies that employment of such individual in excess of such number of days is necessary in the national interest: *And provided further,* That such contracts may be renewed annually;

[(e) employ individuals of outstanding ability without compensation in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160), and regulations issued thereunder;

[(f) establish advisory boards to advise with and make recommendations to the Director on United States arms control and disarmament policy and activities. The members of such boards may receive the compensation and reimbursement for expenses specified for consultants by section 41(d) of this Act;

[(g) permit, under such terms and conditions as he may prescribe, any officer or employee of the Agency, in connection with the attendance by such officer or employee at meetings or in performing advisory services concerned with the functions or activities of the Agency, to accept payment, in cash or in kind, from any private agency or organization, or from any individual affiliated with such agency or organization, for travel and subsistence expenses, such payment to be retained by such officer or employee to cover the cost thereof or to be deposited to the credit of the appropriation from which the cost thereof is paid;

[(i) delegate, as appropriate, to the Deputy Director or other officers of the Agency, any authority conferred upon the Director by the provisions of this Act; and

[(j) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary or desirable to the exercise of any authority conferred upon the Director by the provisions of this Act.]

FOREIGN SERVICE PERSONNEL

SEC. 42. (a) The Secretary of State may authorize the [Director] *Secretary* to exercise, with respect to members of the Foreign Service appointed or employed for the [Agency] *Department*—

(1) the authority available to the Secretary under the Foreign Service Act of 1980, and

(2) the authority available to the Secretary under any other provisions of law pertaining specifically or applicable generally to members of the Foreign Service.

(b) Limited appointments of members of the Foreign Service for the [Agency] *Department* may be extended or renewed, notwithstanding section 309 of the Foreign Service Act of 1980, so long as the service of the individual under such appointment does not exceed ten consecutive years without a break in service of at least one year.

CONTRACTS OR EXPENDITURES

SEC. 43. The President may, in advance, exempt actions of the [Director] *Secretary* from the provisions of law relating to contracts or expenditures of Government funds whenever he determines that such action is essential in the interest of United States arms control and disarmament and security policy.

CONFLICT-OF-INTEREST AND DUAL COMPENSATION LAWS

SEC. 44. The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the [Agency] *Department* is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263), or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 201 of the Dual Compensation Act.

SECURITY REQUIREMENTS

SEC. 45. [(a) The Director shall establish such security and loyalty requirements, restrictions, and safeguards as he deems necessary in the interest of the national security and to carry out the provisions of this Act. Except as provided in subsection (d), the Director shall arrange with the Civil Service Commission for the conduct of full-field background security and loyalty investigations of all the Agency's officers, employees, consultants, persons detailed from other Government agencies, members of its General Advisory Committee, advisory boards, contractors and subcontractors, and their officers and employees, actual or prospective. In the case of persons detailed from other Government agencies or employed directly from other Government agencies, the Director may accept the results of full-field background security and loyalty investigations conducted by such agencies as the basis for the determination required by this subsection that the person is not a security risk or of doubtful loyalty. In the event the investigation discloses information indicating that the person investigated may be or may become a security risk, or may be of doubtful loyalty, the report of the investigation shall be turned over to the Federal Bureau of Investigation for a full-field investigation. The final results of all such investigations shall be turned over to the Director for final determination. Except as provided in subsection (d), no person shall be permitted to enter on duty as such an officer, employee, consultant, or member of advisory committee or board, or pursuant to any such detail, and no contractor or subcontractor, or officer or employee thereof shall be permitted to have access to any classified information, until he shall have been investigated in accordance with this subsection and the report of such investigations made to the Direc-

tor, and the Director shall have determined that such person is not a security risk or of doubtful loyalty. Standards applicable with respect to the security clearance of persons within any category referred to in this subsection shall not be less stringent, and the investigation of such persons for such purposes shall not be less intensive or complete, than in the case of such clearance of persons in a corresponding category under the security procedures of the Government agency or agencies having the highest security restrictions with respect to persons in such category.

[(b) In the case of contractors or subcontractors and their officers or employees, actual or prospective, the Director may accept, in lieu of the investigation prescribed in subsection (a) hereof, a report of investigation conducted by a Government agency, other than the Civil Service Commission or the Federal Bureau of Investigation, when it is determined by the Director that the completed investigation meets the standards established in subsection (a) hereof: *Provided,* That security clearance had been granted to the individual concerned by another Government agency based upon such investigation and report. The Director may also grant access for information classified no higher than "confidential" to contractors or subcontractors and their officers and employees, actual or prospective, on the basis of reports on less than full-field investigations: *Provided,* That such investigations shall each include a current national agency check. Notwithstanding the foregoing and the provisions of subsection (a), the Director may also grant access to classified information to contractors or subcontractors and their officers and employees, actual or prospective, on the basis of a security clearance granted by the Department of Defense, or any agency thereof, to the individual concerned; except that any access to Restricted Data shall be subject to the provisions of subsection (c).]

(c) The Atomic Energy Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission, or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under section 2165 of title 42, to permit the [Director] *Secretary* or any officer, employee, consultant, person detailed from other Government agencies, member of the General Advisory Committee or of an advisory board established pursuant to section 41(f), contractor, subcontractor, prospective contractor, or prospective subcontractor, or officer or employee of such contractor, subcontractor, prospective contractor, or prospective subcontractor, to have access to Restricted Data which is required in the performance of his duties and so certified by the [Director] *Secretary*, but only if (1) the Atomic Energy Commission has determined, in accordance with the established personnel security procedures and standards of the Commission, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Atomic Energy Commission finds that the established personnel and other security procedures and standards of the [Agency] *Department* are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 2165 of title 42, including those for interim clearance in subsection (b) thereof. Any individual granted access to such Restricted Data pursuant to this

subsection may exchange such data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the Armed Forces, or an officer or employee of the National Aeronautics and Space Administration, or a contractor or subcontractor of any such department, agency, or armed force, or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of sections 2163 or 2455 of title 42.

[(d) The investigations and determination required under subsection (a) may be waived by the Director in the case of any consultant who will not be permitted to have access to classified information if the Director determines and certifies in writing that such waiver is in the best interests of the United States.]

COMPTROLLER GENERAL AUDIT

SEC. 46. No moneys appropriated for the purposes of this Act shall be available for payment under any contract with the [Director] *Secretary*, negotiated without advertising, except contracts with any foreign government, international organization or any agency thereof, unless such contract includes a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to such contracts or subcontracts: *Provided, however,* That no moneys so appropriated shall be available for payment under such contract which includes any provisions precluding an audit by the General Accounting Office of any transactions under such contract: *And provided further,* That nothing in this section shall preclude the earlier disposal of contractor and subcontractor records in accordance with records disposal schedules agreed upon between the [Director] *Secretary* and the General Accounting Office.

TRANSFER OF ACTIVITIES AND FACILITIES TO [AGENCY] *DEPARTMENT*

SEC. 47. (a) The United States Disarmament Administration, together with its records, property, personnel, and funds, is hereby transferred to the [Agency] *Department*. The appropriations and unexpended balances of appropriations transferred pursuant to this subsection shall be available for expenditure for any and all objects of expenditure authorized by this Act, without regard to the requirements of apportionment under section 665 of title 31.

(b) The President, by Executive order, may transfer to the [Director] *Secretary* any activities or facilities of any Government agency which relate primarily to arms control and disarmament. In connection with any such transfer, the President may under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds. No transfer shall be made under this subsection until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the

first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without adoption by either House of the Congress of a resolution stating that such House does not favor such transfer. The procedures prescribed in title II of the Reorganization Act of 1949 shall apply to any such resolution.

[USE OF FUNDS

[SEC. 48. Appropriations made to the Director for the purposes of this Act, and transfers of funds to him by other Government agencies for such purposes, shall be available to him to exercise any authority granted him by this Act, including, without limitation, expenses of printing and binding without regard to the provisions of section 11 of the Act of March 1, 1919 (44 U.S.C. 111); purchase or hire of one passenger motor vehicle for the official use of the Director; entertainment and official courtesies to the extent authorized by appropriation; expenditures for training and study; expenditures in connection with participation in international conferences for the purposes of this Act; and expenses in connection with travel of personnel outside the United States, including transportation expenses of dependents, household goods, and personal effects (including any such travel or transportation any part of which begins in one fiscal year pursuant to travel orders issued in that fiscal year, but which is completed after the end of that fiscal year), and expenses authorized by the Foreign Service Act of 1980, not otherwise provided for.]

SPECIALISTS FLUENT IN RUSSIAN OR OTHER LANGUAGES OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 49. The [Director] *Secretary* is authorized to create up to eight additional permanent personnel positions at both junior and more senior levels for specialists in the foreign and military policies of the independent states of the former Union, arms control, or strategic affairs of the former Soviet Union, who also demonstrate fluency in the Russian language or another language of the independent states of the former Soviet Union.

[ACDA INSPECTOR GENERAL

[SEC. 50. (a) ESTABLISHMENT AND DUTIES.—There shall be an Office of the Inspector General at the Agency headed by the Inspector General of the Agency who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978.

[(b) DUALITY OF APPOINTMENT.—An individual appointed to the position of Inspector General of the Department of State shall, by virtue of such appointment, also hold the position of Inspector General of the Agency.

[(c) UTILIZATION OF STAFF.—The Inspector General of the Agency shall utilize personnel of the Office of the Inspector General of the Department of State in performing the duties of the Inspector General of the Agency, and shall not appoint any individuals to positions within the Agency.

[(d) REFERENCES.—For purposes of this section, references in the Inspector General Act of 1978 to the establishment involved, to the

head of the establishment, and to an Inspector General shall be deemed to be references to the Agency, the Director of the Agency, and Inspector General of the Agency, respectively, except to the extent inconsistent with this section.]

ANNUAL REPORT TO CONGRESS

SEC. 51. (a) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report prepared by the [Director] *Secretary*, in consultation with [the Secretary of State,] the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

(1) * * *

* * * * * * *

PUBLIC ANNUAL REPORT ON WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS

SEC. 52. Not later than December 31 of each year, the [Director] *Secretary* shall publish an unclassified report on world military expenditures and arms transfers. Such report shall provide detailed, comprehensive, and statistical information regarding military expenditures, arms transfers, armed forces, and related economic data for each country of the world. In addition, such report shall include pertinent in-depth analyses as well as highlights with respect to arms transfers and proliferation trends and initiatives affecting such developments.

[REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS

[SEC. 53. (a) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent year, any funds appropriated for the Agency shall not be available for obligation or expenditure—

[(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

[(2) in excess of the authorized level of appropriations.

[(b) SUBSEQUENT AUTHORIZATION.—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

[(c) APPLICATION.—The provisions of this section—

[(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

[(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered by the Agency.]

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TITLE V—ON-SITE INSPECTION ACTIVITIES

FINDINGS

SEC. 61. The Congress finds that—

(1) under this Act, the [United States Arms Control and Disarmament Agency] *Department of State* is charged with the "formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security";

(2) as defined in this Act, the terms "arms control" and "disarmament" means "the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement to establish an effective system of international control";

(3) the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

(4) on-site inspection activities under the INF Treaty include—

(A) inspections in Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany,

(B) escort duties for teams visiting the United States and the Basing Countries,

(C) establishment and operation of the Portal Monitoring Facility in Russia, and

(D) support for the inspectors at the Portal Monitoring Facility in Utah;

(5) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (4), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;

(6) the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

(7) the senior officials of the On-Site Inspection Agency include representatives from [the United States Arms Control and Disarmament Agency and] the Department of State.

POLICY COORDINATION CONCERNING IMPLEMENTATION OF ON-SITE INSPECTION PROVISIONS

SEC. 62. (a) INTERAGENCY COORDINATION.—OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

(b) ROLE OF THE SECRETARY OF DEFENSE.—The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10, United States Code.

(c) ROLE OF THE [DIRECTOR] *SECRETARY*.—The [Director] *Secretary* should provide to the interagency mechanism described in

subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 2(d), 22, and 34(c) of this Act.

AUTHORIZATIONS OF APPROPRIATIONS FOR ON-SITE INSPECTION

SEC. 63. There are authorized to be appropriated $49,830,000 for fiscal year 1990 and $48,831,000 for fiscal year 1991 for the expenses of the On-Site Inspection Agency in carrying out on-site inspection activities pursuant to the INF Treaty.

SEC. 64. IMPROVING CONGRESSIONAL OVERSIGHT OF ON-SITE INSPECTION ACTIVITIES.

(a) REPORT FROM THE PRESIDENT.—Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Armed Services of the House of Representatives and Senate. The report shall include a review of—

(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

(2) the missions and tasks assigned to OSIA to date;

(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

(4) the budgetary history of OSIA; and

(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation.

(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.

DEFINITIONS

SEC. 65. As used in this title—

(1) the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987);

(2) the term "OSIA" means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty;

(3) the term "Peaceful Nuclear Explosions Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

(4) the term "Threshold Test Ban Treaty" means the Treaty Between the United States of America and the Union of Soviet

Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).

ARMS EXPORT CONTROL ACT

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CHAPTER 3—MILITARY EXPORT CONTROLS

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SEC. 36. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS; CONGRESSIONAL ACTION.—(a) * * *

(b)(1) In the case of any letter of offer to sell any defense articles or services under this Act for $50,000,000 or more, any design and construction services for $200,000,000 or more, or any major defense equipment for $14,000,000 or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) of subsection (a), and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services proposed to be sold, and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology. In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification). In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

(A) * * *

* * * * * * *

(D) an evaluation, prepared by the [Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and] *Secretary of State in consultation with* the Secretary of Defense, of the manner, if any, in which the proposed sale would—

(i) * * *

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SEC. 38. CONTROL OF ARMS EXPORTS AND IMPORTS.—(a)(1) * * *

(2) Decisions on issuing export licenses under this section shall be made in coordination with the [Director of the United States Arms Control and Disarmament Agency, taking into account the Director's] *Secretary of State, taking into account the Secretary's* assessment as to whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements. [The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director] *The Secretary of State is authorized, whenever the Secretary* determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.

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CHAPTER 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

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SEC. 42. GENERAL PROVISIONS.—(a)(1) In carrying out this Act, special emphasis shall be placed on procurement in the United States, but, subject to the provisions of subsection (b) of this section, consideration shall also be given to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. In evaluating any sale proposed to be made pursuant to this Act, there shall be taken into consideration (A) the extent to which the proposed sale damages or infringes upon licensing arrangements whereby United States entities have granted licenses for the manufacture of the defense articles selected by the purchasing country to entities located in friendly foreign countries, which licenses result in financial returns to the United States, (B) the portion of the defense articles so manufactured which is of United States origin, and (C) the assessment of the [Director of the United States Arms Control and Disarmament Agency] *Secretary of State* as to whether, and the extent to which, such sale might contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.

(2) Any proposed sale made pursuant to this Act shall be approved only after consultation with the [Director of the United States Arms Control and Disarmament Agency] *Secretary of State.* The [Director of the Arms Control and Disarmament Agency is authorized, whenever the Director] *Secretary of State, whenever the*

Secretary determines that a sale under this section would be detrimental to the national security of the United States, to recommend to the President that such sale be disapproved.

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CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

SEC. 71. LICENSING.—

(a) ESTABLISHMENT OF LIST OF CONTROLLED ITEMS.—The Secretary of State, in consultation with the Secretary of Defense[, the Director of the Arms Control and Disarmament Agency,], *Secretary of State,* and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979.

(b) REFERRAL OF LICENSE APPLICATIONS.—(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense and the [Director of the United States Arms Control and Disarmament Agency] *Secretary of State.*

(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense, the Secretary of Commerce, and the [Director of the United States Arms Control and Disarmament Agency] *Secretary of State* the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary [or the Director] indicates the need to receive such application and documents.

(c) INFORMATION SHARING.—The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, with the [Director of the United States Arms Control and Disarmament Agency,] *Secretary of State* and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

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SEC. 73. TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.

(a) * * *

* * * * * * *

(d) ADVISORY OPINIONS.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the [Director of the United States Arms Control and Disarmament Agency] *Secretary of State,* may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter

engages in such activity, may not be made subject to such sanctions on account of such activity.

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SECTION 1706 OF THE UNITED STATES INSTITUTE OF PEACE ACT

BOARD OF DIRECTORS

SEC. 1706. (a) The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this title.

(b) The Board shall consist of fifteen voting members as follows:

(1) * * *

* * * * * * *

[(3) The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate).]

[(4)] *(3)* The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

[(5) Eleven] *(4) Twelve* individuals appointed by the President, by and with the advice and consent of the Senate.

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ATOMIC ENERGY ACT OF 1954

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TITLE I—ATOMIC ENERGY

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CHAPTER 6. SPECIAL NUCLEAR MATERIAL

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SEC. 57. PROHIBITION.—

a. * * *

b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided,* That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with [the Arms Control and Disarmament Agency,] the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after the enactment of the Nuclear Non-Proliferation Act of 1978,

establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, [the Director of the Arms Control and Disarmament Agency,] and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this subsection. The processing of any request proposed and filed as of the date of enactment of the Nuclear Non-Proliferation Act of 1978 shall not be delayed pending the development and establishment of procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further*, That the export of component parts as defined in subsection 11 v. (2) or 11 cc. (2) shall be governed by sections 109 and 126 of this Act: *Provided further*, That notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95–91), the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 54 d., section 64, or section 111 b.

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CHAPTER 11. INTERNATIONAL ACTIVITIES

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SEC. 123. COOPERATION WITH OTHER NATIONS.—

No cooperation with any nation, group of nations or regional defense organization pursuant to section 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

a. the proposed agreement for cooperation has been submitted to the President, which proposed arrangement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

(1) * * *

* * * * * * *

(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d., a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.) from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy **[**and in consultation with the Director of the Arms Control and Disarmament Agency ("the Director")**]**; and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendations of the Secretary of State, the Secretary of Energy, the Nuclear Regulatory Commission, **[**and the Director**]** *and the Secretary of Defense*, who shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B) regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d., any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. 144 b., or 144 d. which are to be implemented by the Department of Defense, by the Secretary of Defense;

* * * * * * *

d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d., or

if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the [Director of the Arms Control and Disarmament Agency] *Secretary of Defense,* when required by subsection 123 a., has been submitted to the Congress: *Provided further,* That an agreement for cooperation exempted by the President pursuant to subsection a. from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement. During the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 i. of this Act.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, [the Arms Control and Disarmament Agency,] and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the re-

quirement set forth in subsection 123 a. (2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b. (3) for purposes of the Commission's consideration of applications and requests under section 126 a. (2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.

NUCLEAR NON-PROLIFERATION ACT OF 1978

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DEFINITIONS

SEC. 4. (a) As used in this Act, the term—

(1) "Commission" means the Nuclear Regulatory Commission;

[(2) "Director" means the Director of the Armed Control and Disarmament Agency;]

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TITLE I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

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URANIUM ENRICHMENT CAPACITY

SEC. 102. The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission, [The Secretary of State, and the Director of the Arms Control and Disarmament Agency] *and the Secretary of State* are directed to establish and implement procedures which will ensure to the maximum extent feasible, consistent with this Act, orderly processing of subsequent arrangements and export licenses with minimum time delay.

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TITLE VI—EXECUTIVE REPORTING

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ADDITIONAL REPORTS

SEC. 602. (a) * * *

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(c) The Department of State, the Department of Defense, [the Arms Control and Disarmament Agency,] the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to their

activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

Deputy Secretary of State.

[Administrator, Agency for International Development.]

Administrator of the National Aeronautics and Space Administration.

Deputy Secretary of Veterans Affairs.

Deputy Secretary of the Treasury.

Deputy Secretary of Transportation.

Chairman, Nuclear Regulatory Commission.

Chairman, Council of Economic Advisers.

Chairman, Board of Governors of the Federal Reserve System.

Director of the Office of Science and Technology.

[Director of the United States Arms Control and Disarmament Agency.

[Director of the United States Information Agency.]

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.

Under Secretaries of State (5).

Under Secretaries of the Treasury (3).

Administrator of General Services.

Administrator of the Small Business Administration.

[Deputy Administrator, Agency for International Development.]

Chairman of the Merit Systems Protection Board.

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[Deputy Director of the United States Arms Control and Disarmament Agency.]

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

[Assistant Administrators, Agency for International Development (6).

[Regional Assistant Administrators, Agency for International Development (4).]

Under Secretary of the Air Force.

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[Deputy Director of the United States Information Agency.]

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[Assistant Directors, United States Arms Control and Disarmament Agency (4).

[Inspector General, United States Information Agency.]

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[Inspector General, Agency for International Development.]

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[Director of the International Broadcasting Bureau, the United States Information Agency] *Director of the International Broadcasting Office, the Department of State.*

Inspector General, Social Security Administration.

The Commissioner of Labor Statistics, Department of Labor.

Administrator, Rural Utilities Service, Department of Agriculture.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate de-

termined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

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[Deputy Director, Policy and Plans, United States Information Agency.]

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[General Counsel of the Agency for International Development.]

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INSPECTOR GENERAL ACT OF 1978

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[SPECIAL PROVISIONS RELATING TO THE AGENCY FOR INTERNATIONAL DEVELOPMENT

[SEC. 8A. (a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Agency for International Development—

[(1) shall supervise, direct, and control all security activities relating to the programs and operations of that Agency, subject to the supervision of the Administrator of that Agency; and

[(2) to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator of the Agency for International Development), shall supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency.

[(b) In addition to the Assistant Inspector Generals provided for in section 3(d) of this Act, the Inspector General of the Agency for International Development shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Security who shall have the responsibility for supervising the performance of security activities relating to programs and operations of the Agency for International Development.

[(c) The semiannual reports required to be submitted to the Administrator of the Agency for International Development pursuant to section 5(b) of this Act shall also be submitted to the Director of the United States International Development Cooperation Agency.

[(d) In addition to the officers and employees provided for in section 6(a)(6) of this Act, members of the Foreign Service may, at the request of the Inspector General of the Agency for International Development, be assigned as employees of the Inspector General.

Members of the Foreign Service so assigned shall be responsible solely to the Inspector General, and the Inspector General (or his or her designee) shall prepare the performance evaluation reports for such members.

[(e) In establishing and staffing field offices pursuant to section 6(c) of this Act, the Administrator of the Agency for International Development shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy.

[(f) The reference in section 7(a) of this Act to an employee of the establishment shall, with respect to the Inspector General of the Agency for International Development, be construed to include an employee of or under the United States International Development Cooperation Agency.

[(g) The Inspector General of the Agency for International Development shall be in addition to the officers provided for in section 624(a) of the Foreign Assistance Act of 1961.

[(h) As used in this Act, the term "Agency for International Development" includes any successor agency primarily responsible for administering part I of the Foreign Assistance Act of 1961.]

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DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; [the Administrator of the Agency for International Development,] Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency[, the Office of Personnel Management or the United States Information Agency] *or the Office of Personnel Management*; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; and the chief officer of the Resolution Trust Corporation; or the Commissioner of Social Security, Social Security Administration; as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; [the Agency for International Development,] the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad

Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, [the United States Information Agency,] the Corporation for National and Community Service,, or the Veterans' Administration, or the Social Security Administration; as the case may be;

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UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948

AN ACT To promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations.

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

TITLE I—SHORT TITLE, OBJECTIVES, AND DEFINITIONS

SHORT TITLE

SECTION 1. This Act may be cited as the "United States Information and Educational Exchange Act of 1948".

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TITLE III—ASSIGNMENT OF SPECIALISTS

PERSONS TO BE ASSIGNED

SEC. 301. The [Director of the United States Information Agency] *Secretary of State* is authorized, when the government of another country is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any person in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the [Director] *Secretary of State* finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 302, or (3) such government shall have made an advance of funds, property, or services as provided in section 902. Nothing in this Act, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

STATUS AND ALLOWANCES

SEC. 302. Any person in the employ or service of the Government of the United States, while assigned for service to or in cooperation with another government under the authority of this Act, shall be

considered, for the purpose of preserving his rights, allowances, and privileges as such, an officer or employee of the Government of the United States and of the Government agency from which assigned and he shall continue to receive compensation from that agency. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5, United States Code.

ACCEPTANCE OF OFFICE UNDER ANOTHER GOVERNMENT

SEC. 303. Any person in the employ or service of the Government of the United States, while assigned for service to or in cooperation with another government under authority of this Act may, at the discretion of his Government agency, with the concurrence of the [Director of the United States Information Agency] *Secretary of State*, and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this Act: *Provided, however,* That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government.

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TITLE V—DISSEMINATING INFORMATION ABOUT THE UNITED STATES ABROAD

GENERAL AUTHORIZATION

SEC. 501. (a) The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Subject to subsection (b), any such information (other than "Problems of Communism" and the "English Teaching Forum" which may be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.

(b)(1) The [Director of the United States Information Agency] *Secretary of State* shall make available to the Archivist of the Unit-

ed States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.

(2) The [Director of the United States Information Agency] *Secretary of State* shall be reimbursed for any attendant expenses. Any reimbursement to the [Director] *Secretary of State* pursuant to this subsection shall be credited to the applicable appropriation of the [United States Information Agency] *Department of State.*

(3) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release. The Archivist may charge fees to recover such costs, in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.

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[USIA] *DEPARTMENT OF STATE* SATELLITE AND TELEVISION

SEC. 505. (a) IN GENERAL.—The [Director of the United States Information Agency] *Secretary of State* is authorized to lease or otherwise acquire time on commercial or United States Government satellites for the purpose of transmitting materials and programs to posts and other users abroad.

(1) [USIA–TV] *DEPARTMENT OF STATE–TV* will serve as a consistently reliable and authoritative source of news. [USIA–TV] *DEPARTMENT OF STATE–TV* news will be accurate and objective.

(b) BROADCAST PRINCIPLES.—The Congress finds that the long-term interests of the United States are served by communicating directly with the peoples of the world by television. [To be effective, the United States Information Agency] *To be effective in carrying out this subsection, the Department of State* must win the attention and respect of viewers. These principles will therefore govern the [Agency's] *Department of State's* television broadcasts (hereinafter in this section referred to as "[USIA–TV] *DEPARTMENT OF STATE–TV*"):

(2) [USIA–TV] *DEPARTMENT OF STATE–TV* will represent the United States, not any single segment of American society and will, therefore, present a balanced and comprehensive projection of significant American thought and institutions.

(3) [USIA–TV] *DEPARTMENT OF STATE–TV* will present the policies of the United States clearly and effectively and will also present responsible discussions and opinion on these policies.

(c) PROGRAMS.—The [Director of the United States Information Agency] *Secretary of State* is authorized to produce, acquire, or broadcast television programs, via satellite, only if such programs—

(1) are interactive, consisting of interviews among participants in different locales;

(2) cover news, public affairs, or other current events;

(3) cover official activities of government, Federal or State, including congressional proceedings and news briefings of any agency of the Executive branch; or

(4) are of an artistic or scientific character or are otherwise representative of American culture.

(d) COSTS.—When a comparable program produced by United States public or commercial broadcasters and producers is available at a cost which is equal to or less than the cost of production by [USIA–TV] *DEPARTMENT OF STATE–TV*, the [Director of the United States Information Agency] *Secretary of State* shall use such materials in preference to [USIA–TV] *DEPARTMENT OF STATE–TV* produced materials.

[(e) ALLOCATION OF FUNDS.—(1) Of the funds authorized to be appropriated to the United States Information Agency not more than $12,000,000 for the fiscal year 1990 and not more than $12,480,000 for the fiscal year 1991 may be obligated or expended for USIA–TV.

[(2) The United States Information Agency shall prepare and submit to the Congress quarterly reports which contain a detailed explanation of expenditures for USIA–TV during the fiscal years 1990 and 1991. Such reports shall contain specific justification and supporting information pertaining to all programs, particularly those described in subsection (c)(4), that were produced in-house by USIA–TV. Each such report shall include a statement by the Director of the United States Information Agency that, according to the best information available to the United States Information Agency, no comparable United States commercially-produced or public television program is available at a cost which is equal to or less than the cost of production by USIA–TV.

[(3) Of the funds authorized to be appropriated to the United States Information Agency, $1,500,000 for the fiscal year 1990 and $1,500,000 for the fiscal year 1991 shall be available only for the purchase or use of programs produced with grants from the Corporation for Public Broadcasting or produced by United States public broadcasters.]

VOICE OF AMERICA HIRING PRACTICES

SEC. 506. (a) PROHIBITION.—After the date of enactment of this section, the Voice of America shall not select candidates for employment who must be or are preapproved for employment at the Voice of America by a foreign government or an entity controlled by a foreign government.

(b) EXCEPTION.—The prohibition referred to in this section shall not apply to—

(1) participants in the Voice of America's exchange programs; or

(2) clerical, technical, or maintenance staff at Voice of America offices in foreign countries.

(c) REPORT.—If the [Director of the United States Information Agency] *Secretary of State* determines that the prohibition under subsection (a) would require the termination of a specific Voice of

America foreign language service, then, not less than 90 days before the [Agency] *Department of State* begins to recruit such candidates, the [Director] *Secretary of State* shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning—

(1) the number and location of speakers of the applicable foreign language who could be recruited by the Voice of America without violating this section; and

(2) the efforts made by the Voice of America to recruit such individuals for employment.

TITLE VI—ADVISORY COMMISSIONS TO FORMULATE POLICIES

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UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

SEC. 604. (a) ESTABLISHMENT.—(1) There is established an advisory commission to be known as the United States Advisory Commission on Public Diplomacy.

(2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party.

(3) The term of each member shall be 3 years, except that of the original seven appointments, two shall be for a term of 1 year and two shall be for a term of 2 years.

(4) Any member appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and qualified.

(5) The President shall designate a member to chair the Commission.

(b) STAFF.—The Commission shall have a staff director who shall be appointed by the chairperson of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the chairperson of the Commission may—

(1) appoint such additional personnel for the staff of the Commission as the chairperson considers necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(c) DUTIES AND RESPONSIBILITIES.—(1) The Commission shall formulate and recommend to [the Director of the United States Information Agency,] the Secretary of State, and the President policies and programs to carry out the functions vested in the [Director or

the Agency, and shall appraise the effectiveness of policies and programs of the Agency] *Secretary of State or the Department of State, and shall appraise the effectiveness of the information, educational, and cultural policies and programs of the Department.*

(2) The Commission shall submit to the Congress, the President, [the Secretary of State, and the Director of the United States Information Agency] *and the Secretary of State* annual reports on programs and activities carried out [by the Agency] *by the Department of State,* including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the [Director for effectuating the purposes of the Agency] *Secretary for effectuating the information, educational, and cultural functions of the Department,* and the action taken to carry out such recommendations.

(3) The Commission may also submit such other reports to the Congress as it considers appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the [programs conducted by the Agency] *information, educational, and cultural programs conducted by the Department of State.*

(4) The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the [Director of the United States Information Agency] *Secretary of State* have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(d) LIMITATION ON AUTHORITY.—The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO.

TITLE VII—APPROPRIATIONS

PRIOR AUTHORIZATION BY CONGRESS

SEC. 701. (a) Notwithstanding any provision of law enacted before the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, no money appropriated to carry out this Act shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation to carry out this Act authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, which specifically repeals, modifies, or supersedes the provisions of this section.

(d) The provisions of this section shall not apply with respect to appropriations made available under the joint resolution entitled

"Joint resolution making continuing appropriations for the fiscal year 1974, and for other purposes", approved July 1, 1973, and any provision of law specifically amending such joint resolution enacted through October 16, 1973.

(e) The provisions of this section shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the [United States Information Agency] *Department of State* as authorized by law.

(f)(1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the [United States Information Agency] *Department of State* in the Department of State and Related Agencies Appropriations Act, for the second fiscal year of any 2–year authorization cycle may be appropriated for such second fiscal year for any other account of the [United States Information Agency] *Department of State*.

(2) Amounts appropriated for the "Salaries and Expenses" and "Educational and Cultural Exchange Programs" accounts may not exceed by more than 5 percent the amount specifically authorized to be appropriated for each such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

(3) The requirements and limitations of subsection (a) shall not apply to the appropriation of funds pursuant to this subsection.

(4) This subsection shall cease to have effect after September 30, 1993.

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NONDISCRETIONARY PERSONNEL COSTS AND CURRENCY FLUCTUATIONS

SEC. 704. (a) Amounts appropriated for a fiscal year to carry out this Act are authorized to be made available until expended.

(b) There are authorized to be appropriated for the [United States Information Agency] *Department of State*, in addition to amounts otherwise authorized to be appropriated for the [Agency] *Department of State*, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(c)(1) In order to maintain the levels of program activity provided for by the annual authorizing legislation for the [United States Information Agency] *Department of State*, there are authorized to be appropriated for the [Agency] *Department of State* such sums as may be necessary for any fiscal year to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, occurring after November 30 of the earlier of (A) the calendar year which ended during the fiscal year preceding such fiscal year, or (B) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted.

(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

(3) In order to eliminate substantial gains to the approved levels of overseas operations for the [United States Information Agency]

Department of State, the [Director] *Secretary of State* shall transfer to the Buying Power Maintenance account such amounts appropriated for "Salaries and Expenses" as the [Director] *Secretary of State* determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

(4) In order to offset adverse fluctuations in foreign currency exchange rates or foreign wages and prices, the [Director] *Secretary of State* may transfer from the Buying Power Maintenance account to the "Salaries and Expenses" appropriations account such amounts as the [Director] *Secretary of State* determines are necessary to maintain the approved level of operations under that appropriation account.

(5) Funds transferred by the [Director] *Secretary of State* from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the [Director] *Secretary of State* from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts that may be obligated or expended by the [United States Information Agency] *Department of State* shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.

(7)(A) Subject to the limitations contained in this paragraph, not later than the end of the 5th fiscal year after the fiscal year for which funds are appropriated or otherwise made available for the "Salaries and Expenses" account, the [Director] *Secretary of State* may transfer any unobligated balance of such funds to the Buying Power Maintenance account.

(B) The balance of the Buying Power Maintenance account may not exceed $50,000,000 as a result of any transfer under this paragraph.

(C) Any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 705 and shall be available for obligation or expenditure only in accordance with the procedures under such section.

(D) The authorities contained in this section may only be exercised to such an extent and in such amounts as specifically provided in advance in appropriation Acts.

SEC. 705. (a) Unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of a proposed reprogramming, funds appropriated for the [United States Information Agency] *Department of State* shall not be available for obligation or expenditure through any such reprogramming of funds—

(1) which creates new programs;

(2) which eliminates a program, project, or activity;

(3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;

(4) which relocates an office or employees;

(5) which reorganizes offices, programs, or activities;

(6) which involves contracting out functions which had been performed by Federal employees; or

(7) which involves a reprogramming in excess of $500,000 or 10 percent, whichever is less, and which (A) augments existing programs, projects, or activities, (B) reduces by 10 percent or more the funding for any existing program, project, or activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress.

(b) In addition, the [United States Information Agency] *Department of State* may award program grants only if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of the proposed grant.

(c) Funds appropriated for the [United States Information Agency] *Department of State* may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.

TITLE VIII—ADMINISTRATIVE PROCEDURES

THE SECRETARY

SEC. 801. In carrying out the purposes of this Act, the Secretary is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) In carrying out title II of this Act, to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3) whenever necessary in carrying out title V of this Act, to purchase, rent, construct, improve, maintain, and operate facilities for radio and television transmission and reception, including the leasing of associated real property (either within or outside the United States) for periods not to exceed forty years, or for longer periods if provided for by an appropriation Act, and the alteration, improvement, and repair of such property, without regard to section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and any such real property or interests therein which are outside the United States may be acquired without regard to section 355 of the Revised Statutes of the United States (40 U.S.C. 255) if the sufficiency of the title to such real

property or interests therein is approved by the [Director of the United States Information Agency] *Secretary of State*;

(4) to provide for printing and binding outside the continental limits of the United States, without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);

(5) to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act;

(6) to create with the approval of the Commission on Information and the Commission on Educational Exchange, such advisory committees as the Secretary may decide to be of assistance in formulating his policies for carrying out the purposes of this Act. No Committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73 b–2); and

(7) notwithstanding any other provision of law, to carry out projects involving security construction and related improvements for [Agency] *Department of State* facilities not physically located together with Department of State facilities abroad.

GOVERNMENT AGENCIES

SEC. 802. (a) In carrying on activities which further the purposes of this Act, subject to approval of such activities by the Secretary, the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 3741 of the Revised Statutes (41 U.S.C. 22);

(3) under such regulations as the Secretary may prescribe, to pay the transportation expenses, and not to exceed $10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and the Subsistence Act of 1926, as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(b)(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(A) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(B) the [Director of the United States Information Agency] *Secretary of State* determines that—

(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(iii) such method of contracting will not inhibit small business participation.

(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.

(4)(A) Notwithstanding the other provisions of this subsection, the [United States Information Agency] *Department of State* is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs.

(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

MAXIMUM USE OF EXISTING GOVERNMENT PROPERTY AND FACILITIES

SEC. 803. In carrying on activities under this Act which require the utilization of Government property and facilities, maximum use shall be made of existing Government property and facilities.

BASIC AUTHORITY

SEC. 804. In carrying out the provisions of this Act, the Secretary, or any Government agency authorized to administer such provisions, may—

(1) employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when suitably qualified United States citizens are not available when job vacancies occur, and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions and procedures as may be established by the [Director of the United States Information Agency] *Secretary of State* and the Attorney General;

* * * * * * *

SEAL OF THE [UNITED STATES INFORMATION AGENCY] *DEPARTMENT OF STATE*

SEC. 807. The seal of the [United States Information Agency] *Department of State* shall be the arms and crest of the United States, encircled by the words "[United States Information Agency] *Department of State*". Judicial notice shall be taken of the seal.

ACTING ASSOCIATE DIRECTORS

SEC. 808. If an Associate Director of the [United States Information Agency] *Department of State* dies, resigns, or is sick or absent, the Associate Director's principal assistant shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

* * * * * * *

USE OF ENGLISH-TEACHING PROGRAM FEES

SEC. 810. (a) Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees received by or for the use of the [United States Information Agency] *Department of State* from or in connection with English-teaching and library services, and [Agency] *Department of State*-produced publications, and not to exceed $100,000 of payments from motion picture and television programs, produced or conducted by or on behalf of the [Agency] *Department of State* under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 is authorized to be credited each fiscal year to the appropriate appropriation of the [United States Information Agency] *Department of State* to such extent as may be provided in advance in an appropriation Act.

DEBT COLLECTION

SEC. 811. (a) CONTRACT AUTHORITY.—(1) Subject to the availability of appropriations, the [Director of the United States Information Agency] *Secretary of State* shall enter into contracts for collection services to recover indebtedness owed by a person, other than a foreign country, to the United States which arises out of activities of the [United States Information Agency] *Department of State* and is delinquent by more than 90 days.

(2) Each contract entered into under this section shall provide that the person with whom the [Director of the United States Information Agency] *Secretary of State* enters into such contract shall submit to the [Director] *Secretary of State* at least once every 180 days a status report on the success of the person in collecting debts. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent that such section is not inconsistent with this subsection.

(b) DISCLOSURE OF DELINQUENT DEBT TO CREDIT REPORTING AGENCIES.—The [Director of the United States Information Agency] *Secretary of State* shall, to the extent otherwise allowed by law, disclose to those credit reporting agencies to which the [Director] *Secretary of State* reports loan activity information concerning any debt of more than $100 owed by a person, other than a foreign

country, to the United States which arises out of activities of the [United States Information Agency] *Department of State* and is delinquent by more than 31 days.

[USIA] *DEPARTMENT OF STATE* POSTS AND PERSONNEL OVERSEAS

SEC. 812. (a) LIMITATION.—Except as provided under this section no funds authorized to be appropriated to the [United States Information Agency] *Department of State* may be used to pay any expense associated with the closing of any [United States Information Agency] *Department of State* post abroad.

(b) NOTIFICATION.—Not less than 45 days before the closing of any [United States Information Agency] *Department of State* post abroad the [Director of the United States Information Agency] *Secretary of State* shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) EXCEPTIONS.—This section shall not apply to any [United States Information Agency] *Department of State* post closed—

(1) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located; or

(2) where there is a real and present threat to United States diplomats in the city where the post is located and where a travel advisory warning against travel by United States citizens to the city has been issued by the Department of State.

* * * * * * *

TITLE X—MISCELLANEOUS

* * * * * * *

INFORMATIONAL MEDIA GUARANTIES

SEC. 1011. (a) The [Director of the United States Information Agency] *Secretary of State* may make guaranties, in accordance with the provisions of subsection (b) of section 413 of the Mutual Security Act of 1954, of investments in enterprises producing or distributing informational media consistent with the national interests of the United States: *Provided*, That the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in sections 413(b)(4)(A) and 413(b)(4)(G) of the Mutual Security Act of 1954, as amended.

(b) The [Director] *Secretary of State* is authorized to assume the obligation of not to exceed $28,000,000 of the notes authorized to be issued pursuant to subsection 111(c)(2) of the Economic Cooperation Act of 1948, as amended (22 U.S.C. 1509(c)(2)), together with the interest accrued and unpaid thereon, and to obtain advances from time to time from the Secretary of the Treasury up to such amount, less amounts previously advanced on such notes, as provided for in said notes. Such advances shall be deposited in a special account in the Treasury available for payments under informational media guaranties.

(c) The [Director] *Secretary of State* is authorized to make informational media guaranties without regard to the limitations of time contained in subsection 413(b)(4) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)), but the total of such guaranties outstanding at any one time shall not exceed the sum of the face amount of the notes assumed by the [Director] *Secretary of State* less the amounts previously advanced on such notes by the Secretary of the Treasury plus the amount of the funds in the special account referred to in subsection (b).

(d) Foreign currencies available after June 30, 1955, from conversions made pursuant to the obligation of informational media guaranties may be sold, in accordance with Treasury Department regulations, for dollars which shall be deposited in the special account and shall be available for payments under new guaranties. Such currencies shall be available, as may be provided for by the Congress in appropriation Acts, for use of educational, scientific, and cultural purposes which are in the national interest of the United States, and for such other purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive.

(e) Notwithstanding the provisions of subparagraph 413(b)(4)(E) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)(E), (1) fees collected for the issuance of informational media guaranties shall be deposited in the special account and shall be available for payments under informational media guaranties; and (2) the [Director] *Secretary of State* may require the payment of a minimum charge of up to fifty dollars for issuance of guaranty contracts, or amendments thereto.

(f) The [Director] *Secretary of State* is further authorized, under such terms as he may prescribe, to make advance payments under informational media guaranties: *Provided,* That currencies receivable from holders of such guaranties on account of such advance payments shall be paid to the United States within nine months from the date of the advance payment and that appropriate security to assure such payments is required before any advance payment is made.

(g) As soon as feasible after the enactment of this subsection, all assets, liabilities, income, expenses, and charges of whatever kind pertaining to informational media guaranties, including any charges against the authority to issue notes provided in section 111(c)(2) of the Economic Cooperation Act of 1948, as amended, cumulative from the enactment of that Act, shall be accounted for separately from other guaranties issued pursuant to subsection 413(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)): *Provided,* That there shall be transferred from the special account established pursuant to subsection (b), into the account available for payments under guaranties other than informational media guaranties, an amount equal to the total of the fees received for the issuance of guaranties other than informational media guaranties, and used to make payments under informational media guaranties.

(h)(1) There is authorized to be appropriated annually an amount to restore in whole or in part any realized impairment to the capital used in carrying on the authority to make informational media

guaranties, as provided in subsection (c), through the end of the last completed fiscal year.

(2) Such impairment shall consist of the amount by which the losses incurred and interest accrued on notes exceed the revenue earned and any previous appropriations made for the restoration of impairment. Losses shall include the dollar losses on foreign currencies sold, and the dollar cost of foreign currencies which (a) the Secretary of the Treasury, after consultation with the [Director] *Secretary of State*, has determined to be unavailable for, in excess of, requirements of the United States, or (b) have been transferred to other accounts without reimbursement to the special account.

(3) Dollars appropriated pursuant to this section shall be applied to the payment of interest and in satisfaction of notes issued or assumed hereunder, and to the extent of such application to the principal of the notes, the [Director] *Secretary of State* is authorized to issue notes to the Secretary of the Treasury which will bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the guaranties. The currencies determined to be unavailable for, or in excess of requirements of the United States as provided above shall be transferred to the Secretary of the Treasury to be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts.

(4) Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.

MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961

(FULBRIGHT-HAYS ACT)

AN ACT To provide for the improvement and strengthening of the international relations of the United States by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Educational and Cultural Exchange Act of 1961."

* * * * * * *

SEC. 104. (a) The President may delegate, to such officers of the Government as he determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act: *Provided,* That where the President has delegated any of such powers to any officer, before the President implements any proposal for the delegation of any of such powers to another

officer, that proposal shall be submitted to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, and thereafter a period of not less than sixty days shall have elapsed while Congress is in session. In computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days.

(b) The President is authorized to employ such other personnel as he deems necessary to carry out the provisions and purposes of this Act, and of such personnel not to exceed ten may be compensated without regard to the provisions of the Classification Act of 1949, as amended, but not in excess of the highest rate of grade 18 of the general schedule established by such Act. Such positions shall be in addition to the number authorized by section 505 of the Classification Act of 1949, as amended.

(d) For the purpose of performing functions under this Act outside the United States, the President is authorized to provide that any person employed or assigned by a United States Government agency shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of the Foreign Service Act of 1980, for individuals appointed to the Foreign Service.

(e)(1) In providing for the activities and interchanges authorized by section 102 of this Act, grants may be made to or for individuals, either directly or through foundations or educational or other institutions, which foundations or institutions are public or private nonprofit, and may include funds for tuition and other necessary incidental expenses, for travel expenses from their places of residence and return for themselves, and, whenever it would further the purposes of this Act, for the dependent members of their immediate families, for health and accident insurance premiums, emergency medical expenses, costs of preparing and transporting to their former homes the remains of any of such persons who may die while away from their homes as participants or dependents of participants in any program under this Act, and for per diem in lieu of subsistence at rates prescribed by the [Director of the International Communication Agency] *Secretary of State*, for all such persons, and for such other expenses as are necessary for the successful accomplishment of the purposes of this Act.

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SEC. 106. (a) * * *

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[(c)(1) There is hereby continued the Advisory Committee on the Arts (hereinafter referred to as the "Committee") created under section 10 of the International Cultural Exchange and Trade Fair Participation Act of 1956, consisting of a Chairman and nine other members of whom at least one shall be a member of the Commission. Appointment of all members and selection of the Chairman of this Committee shall hereafter be made by the Secretary of State. In making such appointments due consideration shall be given to the recommendations for nomination submitted by leading national organizations in the major art fields.

[(2) The members of the Committee shall be individuals whose knowledge of or experience in, or whose profound interest in, one or more of the arts will enable them to assist the Commission, the President, and other officers of the Government in performing the functions described in paragraph (3) of this subsection.

[(3) The Committee shall, in connection with activities authorized under subsection 102(a)(2) of this Act—

[(A) advise and assist the Commission in the discharge of its responsibilities in the field of international educational exchange and cultural presentations with special reference to the role of the arts in such fields;

[(B) advise other interested officers of the Government in the discharge of their responsibilities in connection with such activities and in connection with other international activities concerned with the arts;

[(C) provide such other advice and assistance as may be necessary or appropriate.

[(4) The term of office of each of the members of the Committee shall be three years.]

(d) The President is authorized to create such interagency and other advisory committees as in his judgment may be of assistance in carrying out the purposes of this Act, and from time to time to convene conferences of persons interested in educational and cultural affairs to consider matters relating to the purposes of this Act.

(e) The provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691), shall be applicable to any interagency committee created pursuant to the provisions of this Act. Members of the Commission, the Committee, and other committees provided for in this section shall be entitled (i) to transportation expenses and per diem in lieu of subsistence at the rate prescribed by or established pursuant to section 5 of the Administrative Expense Act of 1946, as amended (5 U.S.C. 73b–2), while away from home in connection with attendance at meetings or in consultation with officials of the Government or otherwise carrying out duties as authorized, and (ii) if not otherwise in the employ of the United States Government, to compensation at rates not in excess of $50 per diem while performing services for Commission, Committee, or other committee. Members of the Board shall be entitled to such expenses and per diem in lieu of subsistence as provided for under clause (i) of the preceding sentence and, while performing services for the Board, to compensation at a rate, prescribed by the [Director of the International Communication Agency] *Secretary of State*, not in excess of the daily rate for the first step of GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(f) The President is authorized to provide for necessary secretarial and staff assistance for the Board, the Commission, the Committee, and such other committees as may be created under this section.

SEC. 107. The Board, the Commission, and the Committee shall submit annual reports to the Congress and such other reports to the Congress as they deem appropriate, and shall make reports to the public in the United States and abroad to develop a better un-

derstanding of and support for the programs authorized by this Act.

SEC. 108. (a)(1) Whenever the President determines it to be in furtherance of this Act, the functions authorized in section 102(a)(2) and (3) may be performed without regard to such provisions of law or limitations of authority regulating or relating to the making, performance, amendment, or modification of contracts, the acquisition and disposition of property, and the expenditure of Government funds, as he may specify.

(2) Notwithstanding any other provision of law, the [Director of the International Communication Agency] *Secretary of State* may provide, on a reimbursable basis, services within the United States in connection with exchange activities otherwise authorized by this Act when such services are requested by a department or executive agency. Reimbursements under this paragraph shall be credited to the applicable appropriation of the Agency.

* * * * * * *

SEC. 112. (a) [In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a [Bureau] *Department of State* of Educational and Cultural Affairs (hereinafter in this section referred to as the "[Bureau] *Department of State*").] The [Bureau] *Department of State* shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) * * *

* * * * * * *

(c) The President shall insure that all programs under the authority of the [Bureau] *Department of State* shall maintain their nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. The President shall insure that academic and cultural programs under the authority of the [Bureau] *Department of State* shall maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement.

(d) The [Bureau] *Department of State* shall administer no programs except those operating under the authority of this Act and consistent with its purposes.

[(e) There is established in the Bureau of Educational and Cultural Affairs an Office of Citizen Exchanges. The Office shall support private not-for-profit organizations engaged in the exchange of persons between the United States and other countries.]

(f)(1) The President shall ensure that all exchange programs conducted by the United States Government, its departments and agencies, directly or through agreements with other parties, are reported at a time and in a format prescribed by the [Director] *Secretary of State*. The President shall ensure that such exchanges are consistent with United States foreign policy and avoid duplication of effort.

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FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

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TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

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PART C—MIKE MANSFIELD FELLOWSHIPS

SEC. 251. SHORT TITLE.

This part may be cited as the "Mike Mansfield Fellowship Act".

SEC. 252. ESTABLISHMENT OF FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—(1) There is hereby established the "Mike Mansfield Fellowship Program" pursuant to which the [Director of the United States Information Agency] *Secretary of State* will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each (or, pursuant to section 253(5)(C), for such shorter period of time as the Center may determine based on a Fellow's level of proficiency in the Japanese language or knowledge of the political economy of Japan) as follows:

(A) * * *

* * * * * * *

TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "United States International Broadcasting Act of 1994".

* * * * * * *

SEC. 304. ESTABLISHMENT OF BROADCASTING BOARD OF GOVERNORS.

(a) ESTABLISHMENT.—There is hereby established within the [United States Information Agency] *Department of State* a Broadcasting Board of Governors (hereafter in this title referred to as the "Board").

(b) COMPOSITION OF THE BOARD.—

(1) The Board shall consist of 9 members, as follows:

(A) 8 voting members who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The [Director of the United States Information Agency] *Secretary of State* who shall also be a voting member.

(2) The President shall designate one member (other than the [Director of the United States Information Agency] *Secretary of State*) as Chairman of the Board.

(3) Exclusive of the [Director of the United States Information Agency] *Secretary of State*, not more than 4 of the members of the Board appointed by the President shall be of the same political party.

(c) TERM OF OFFICE.—The term of office of each member of the Board shall be three years, except that the [Director of the United States Information Agency] *Secretary of State* shall remain a member of the Board during the Director's term of service. Of the other 8 voting members, the initial terms of office of two members shall be one year, and the initial terms of office of 3 other members shall be two years, as determined by the President. The President shall appoint, by and with the advice and consent of the Senate, Board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no [Director of the United States Information Agency] *Secretary of State*, the acting Director of the agency shall serve as a member of the Board until a Director is appointed.

(d) SELECTION OF BOARD.—Members of the Board appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.

(e) COMPENSATION.—Members of the Board, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The [Director of the United States Information Agency] *Secretary of State* shall not be entitled to any compensation under this title, but may be allowed travel expenses as provided under this subsection.

(f) DECISIONS.—Decisions of the Board shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

SEC. 305. AUTHORITIES OF THE BOARD.

(a) AUTHORITIES.—The Board shall have the following authorities:

(1) To direct and supervise all broadcasting activities conducted pursuant to this [title,] *title (including activities of the Voice of America previously carried out by the United States Information Agency)*, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.

(4) To review, evaluate, and determine, at least annually, the addition or deletion of language services.

(5) To make and supervise grants for broadcasting and related activities in accordance with sections 308 and 309.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting [Bureau] *Office* and grantees, subject to the limitations in sections 308 and 309 and subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

(9) To submit to the President and the Congress, through the [Director of the United States Information Agency] *Secretary of State*, an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

(10) To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.

(11) To appoint such staff personnel for the Board as the Board may determine to be necessary, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1994 and 1995 may not exceed the amount made available to the Board for International Broadcasting for such purposes for fiscal year 1993).

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the [Bureau] *Office* and by grantees and the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Board may provide for the use of United States Government transmitter capacity for relay of Radio Free Asia.

(b) BROADCASTING BUDGETS.—

(1) The Director of the [Bureau] *Office* and the grantees identified in sections 308 and 309 shall submit proposed budg-

ets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act to the [Director of the United States Information Agency] *Secretary of State* for the consideration of the Director as a part of the [Agency's] *Department's* budget submission to the Office of Management and Budget.

(2) The [Director of the United States Information Agency] *Secretary of State* shall include in the Agency's submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget.

(c) IMPLEMENTATION.—The [Director of the United States Information Agency] *Secretary of State* and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting [Bureau] *Office*, its broadcasting services, and grantees.

(d) TECHNICAL AMENDMENT.—

(1) Section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b) is amended by striking "and the Associate Director for Broadcasting of the [United States Information Agency] *Department of State*" and inserting "of the Voice of America".

(2) Section 5(b) of the Radio Broadcasting to Cuba Act (22 U.S.C.1465c(b)) is amended by striking "Director and Associate Director for Broadcasting of the [United States Information Agency] *Department of State*" and inserting "Broadcasting Board of Governors".

SEC. 306. FOREIGN POLICY GUIDANCE.

To assist the Board in carrying out its functions, the Secretary of State[, acting through the Director of the United States Information Agency,], *acting through the Under Secretary of State for Public Diplomacy*, shall provide information and guidance on foreign policy issues to the Board.

SEC. 307. INTERNATIONAL BROADCASTING [BUREAU] *OFFICE*.

(a) ESTABLISHMENT.—There is hereby established an International Broadcasting [Bureau] *Office* within the [United States Information Agency] *Department of State* (hereafter in this title referred to as the "[Bureau] *Office*"), to carry out all nonmilitary international broadcasting activities supported by the United States Government other than those described in sections 308 and 309.

(b) SELECTION OF THE DIRECTOR OF THE [BUREAU] *OFFICE*.—

(1) The Director of the [Bureau] *Office* shall be appointed by the Chairman of the Board, in consultation with the [Director of the United States Information Agency] *Secretary of State* and with the concurrence of a majority of the Board. The Director of the [Bureau] *Office* shall be entitled to receive compensation at the rate prescribed by law for level IV of the Executive Schedule.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of the International Broadcasting [Bureau] *Office*, the [United States Information Agency] *Department of State*.".

SEC. 308. LIMITS ON GRANTS FOR RADIO FREE EUROPE AND RADIO LIBERTY.

(a) BOARD OF RFE/RL, INCORPORATED.—The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Broadcasting Board of Governors established under section 304 and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the grant provided under this title.

(b) LOCATION OF PRINCIPAL PLACE OF BUSINESS.—

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL, Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(c) LIMITATION ON GRANT AMOUNTS.—The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed $75,000,000 for any fiscal year after fiscal year 1995.

(d) ALTERNATIVE GRANTEE.—If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 309 in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require.

(e) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) AUTHORITY.—Grants authorized under section 305 for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before the date of enactment of this Act with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973, as in effect on such date.

(g) GRANT AGREEMENT.—Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement.

The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

(1) that a grant be used only for activities which the Board determines are consistent with the purposes of subsection (f);

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the International Broadcasting [Bureau] *Office* be reduced to the extent appropriate, as determined by the Board; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) PROHIBITED USES OF GRANT FUNDS.—No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B), to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 of the United States Code or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

(i) REPORT ON MANAGEMENT PRACTICES.—(1) Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the [United States Information Agency] *Department of State* shall submit to the Board, the [Director of the United States Information Agency] *Secretary of State*, and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the [United States Information Agency] *Department of State* shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) AUDIT AUTHORITY.—

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of RFE/RL, Incorporated, are normally kept.

(2) Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act, the Inspector General of the [United States Information Agency] *Department of State* is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(k) PLAN FOR RELOCATION.—None of the funds authorized to be appropriated for the fiscal years 1994 or 1995 may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany, unless—

(1) such relocation is specifically provided for in an appropriation Act or pursuant to a reprogramming notification; and

(2)(A) such relocation is authorized by the Board and the Board submits to the Comptroller General of the United States and the appropriate Congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation; or

(B) prior to the confirmation of all members of the Board, such relocation is authorized by the President, the President certifies that a significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation.

(l) REPORTS ON PERSONNEL CLASSIFICATION.—Not later than 90 days after the date of confirmation of all members of the Board, the Board shall submit a report to the Congress containing a justification, in terms of the types of duties performed at specific rates of salary and other compensation, of the classification of personnel employed by RFE/RL, Incorporated. The report shall include a comparison of the rates of salary or other compensation and classifications provided to employees of RFE/RL, Incorporated, with the rates of salary or other compensation and classifications of employ-

ees of the Voice of America stationed overseas in comparable positions and shall identify any disparities and steps which should be taken to eliminate such disparities.

SEC. 309. RADIO FREE ASIA.

(a) AUTHORITY.—

(1) Grants authorized under section 305 shall be available to make annual grants for the purpose of carrying out radio broadcasting to the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam.

(2) Such broadcasting service shall be referred to as "Radio Free Asia".

(b) FUNCTIONS.—Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c) SUBMISSION OF DETAILED PLAN FOR RADIO FREE ASIA.—

(1) No grant may be awarded to carry out this section unless the Board, through the [Director of the United States Information Agency] *Secretary of State*, has submitted to Congress a detailed plan for the establishment and operation of Radio Free Asia, including—

(A) a description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4);

(B) a description of the numbers and qualifications of employees it proposes to hire; and

(C) how it proposes to meet the technical requirements for carrying out its responsibilities under this section.

(2) The plan required by paragraph (1) shall be submitted not later than 90 days after the date on which all members of the Board are confirmed.

(3) No grant may be awarded to carry out the provisions of this section unless the plan submitted by the Board includes a certification by the Board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and subsection (d)(5).

(4) If the Board determines that a Radio Free Asia cannot be established or operated effectively within the funding limitations provided for in this section, the Board may submit, through the [Director of the United States Information Agency] *Secretary of State*, an alternative plan and such proposed changes in legislation as may be necessary to the appropriate congressional committees.

(d) GRANT AGREEMENT.—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1)(A) The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which en-

sures economy, operational effectiveness, and accountability to the Board.

(B) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, DC, and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, DC.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 1999.

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed $22,000,000 in any fiscal year.

(5) The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed $8,000,000.

(6) Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(e) LIMITATIONS ON ADMINISTRATIVE AND MANAGERIAL COSTS.—It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(f) ASSESSMENT OF THE EFFECTIVENESS OF RADIO FREE ASIA.—Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this title,

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(g) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the Presi-

dent's fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States.

(h) NOTIFICATION AND CONSULTATION REGARDING DISPLACEMENT OF VOICE OF AMERICA BROADCASTING.—The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia. The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities.

(i) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make Radio Free Asia a Federal agency or instrumentality.

SEC. 310. TRANSITION.

(a) AUTHORIZATION.—

(1) The President is authorized consistent with the purposes of this Act to direct the transfer of all functions and authorities from the Board for International Broadcasting to the [United States Information Agency] *Department of State*, the Board, or the [Bureau] *Office* as may be necessary to implement this title.

(2)(A) Not later than 120 days after the date of enactment of this Act, the [Director of the United States Information Agency] *Secretary of State* and the Chairman of the Board for International Broadcasting shall jointly prepare and submit to the President for approval and implementation a plan to implement the provisions of this title. Such plan shall include at a minimum a detailed cost analysis to implement fully the recommendations of such plan. The plan shall identify all costs in excess of those authorized for such purposes and shall provide that any excess cost to implement the plan shall be derived only from funds authorized in section 201 of this Act.

(B) The President shall transmit copies of the approved plan, together with any recommendations for legislative changes that may be necessary, to the appropriate congressional committees.

(b) NEW APPOINTEES.—The [Director of the United States Information Agency] *Secretary of State* may assign employees of the Agency for service with RFE/RL, Incorporated, with the concurrence of the president of RFE/RL, Incorporated. Such assignment shall not affect the rights and benefits of such personnel as employees of the [United States Information Agency] *Department of State*.

(c) BOARD FOR INTERNATIONAL BROADCASTING PERSONNEL.—All Board for International Broadcasting full-time United States Government personnel (except special Government employees) and part-time United States Government personnel holding permanent positions shall be transferred to the [United States Information Agency] *Department of State*, the Board, or the [Bureau] *Office*. Such transfer shall not cause any such employee to be separated or reduced in grade or compensation.

(d) OTHER AUTHORITIES.—The [Director of the United States Information Agency] *Secretary of State* is authorized to utilize the provisions of titles VIII and IX of the United States Information and Educational Exchange Act of 1948, and any other authority available to the Director on the date of enactment of this Act, to the extent that the Director considers necessary in carrying out the provisions and purposes of this title.

(e) REPEAL.—The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed effective September 30, 1995, or the date on which all members of the Board are confirmed, whichever is earlier.

(f) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(B) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the [Director of the United States Information Agency] *Secretary of State* or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings pending before the Board for International Broadcasting at the time this title takes effect, with respect to functions transferred by this title, but such proceedings shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the termination or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been terminated or modified if this title had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Board for International Broadcasting or by or against any individual in the official capacity of such individual as an officer of the Board for

International Broadcasting shall abate by reason of the enactment of this title.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Board for International Broadcasting relating to a function transferred under this title may be continued by the [United States Information Agency] *Department of State* with the same effect as if this title had not been enacted.

(6) REFERENCES.—A reference in any provision of law, reorganization plan, or other authority to the Associate Director for Broadcasting of the [United States Information Agency] *Department of State* shall be considered to be a reference to the Director of the International Broadcasting [Bureau] *Office* of the [United States Information Agency] *Department of State.*

(7) EFFECT ON OTHER LAWS.—The provisions of, and authorities contained in or transferred pursuant to, this title are not intended to repeal, limit, or otherwise derogate from the authorities or functions of or available to the [Director of the United States Information Agency] *Secretary of State* or the Secretary of State under law, reorganization plan, or otherwise, unless such provision hereof—

(A) specifically refers to the provision of law or authority existing on the effective date of this title, so affected; or

(B) is in direct conflict with such law or authority existing on the effective date of this title.

SEC. 311. PRESERVATION OF AMERICAN JOBS.

It is the sense of the Congress that the [Director of the United States Information Agency] *Secretary of State* and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

SEC. 312. PRIVATIZATION OF RADIO FREE EUROPE AND RADIO LIBERTY.

(a) DECLARATION OF POLICY.—It is the sense of the Congress that, in furtherance of the objectives of section 302 of this Act, the funding of Radio Free Europe and Radio Liberty should be assumed by the private sector not later than December 31, 1999, and that the funding of Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time.

(b) PRESIDENTIAL SUBMISSION.—The President shall submit with his annual budget submission as provided for in section 307 an analysis and recommendations for achieving the objectives of subsection (a).

(c) REPORTS ON TRANSFER OF RFE/RL RESEARCH INSTITUTE.—Not later than 120 days after the date of enactment of this Act, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report on the steps being taken to transfer RFE/RL Research Institute

pursuant to subsection (a) and shall provide periodic progress reports on such efforts until such transfer has been achieved.

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TELEVISION BROADCASTING TO CUBA ACT

SEC. 243. TELEVISION BROADCASTING TO CUBA.

(a) TELEVISION BROADCASTING TO CUBA.—In order to carry out the purposes set forth in section 242 and notwithstanding the limitation of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) with respect to the dissemination in the United States of information prepared for dissemination abroad to the extent such dissemination is inadvertent, the [United States Information Agency (hereafter in this part referred to as the "Agency")] *Department of State (hereafter in this part referred to as the "Department")* shall provide for the open communication of information and ideas through the use of television broadcasting to Cuba. Television broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

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SEC. 244. TELEVISION MARTI SERVICE OF THE UNITED STATES INFORMATION AGENCY.

(a) TELEVISION MARTI SERVICE.—[The Director of the United States Information Agency shall establish within the Voice of America a Television Marti Service.] *The Secretary of State shall administer within the Voice of America the Television Marti Service.* The Service shall be responsible for all television broadcasts to Cuba authorized by this part. The [Director of the United States Information Agency] *Secretary of State* shall appoint a head of the Service who shall report directly to the Director of the Voice of America. The head of the Service shall employ such staff as the head of the Service may need to carry out the duties of the Service.

(b) USE OF EXISTING FACILITIES OF THE [USIA] *DEPARTMENT OF STATE*.—To assure consistency of presentation and efficiency of operations in conducting the activities authorized under this part, the Television Marti Service shall make maximum feasible utilization of [Agency facilities] *Department facilities* and management support, including Voice of America: Cuba Service, Voice of America, and the [United States Information Agency Television Service] *Department of State Television Service.*

(c) [USIA AUTHORITY.—The Agency] *SECRETARY OF STATE AUTHORITY.—The Secretary of State* may carry out the purposes of this part by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the [Agency] *Secretary of State* determines will be most effective.

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SEC. 246. ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.

In order to assist the [United States Information Agency] *Department of State* in carrying out the provisions of this part, any agency or instrumentality of the United States may sell, loan,

lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of [the Agency] *the Department.*

SEC. 247. AUTHORIZATION OF APPROPRIATIONS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the United States Information Agency, $16,000,000 for the fiscal year 1990 and $16,000,000 for the fiscal year 1991 for television broadcasting to Cuba in accordance with the provisions of this part.]

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RADIO BROADCASTING TO CUBA ACT

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ADDITIONAL FUNCTIONS OF THE [UNITED STATES INFORMATION AGENCY] *DEPARTMENT OF STATE*

SEC. 3. (a) In order to carry out the objectives set forth in section 2, the [United States Information Agency (hereafter in this Act referred to as the "Agency")] *Department of State (hereafter in this Act referred to as the "Department")* shall provide for the open communication of information and ideas through the use of radio broadcasting to Cuba. Radio broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

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(f) In the event broadcasting facilities located at Marathon, Florida, are rendered inoperable by natural disaster or by unlawful destruction, the [Director of the United States Information Agency] *Secretary of State* may, for the period in which the facilities are inoperable but not to exceed one hundred and fifty days, use other United States Government-owned transmission facilities for Voice of America broadcasts to Cuba authorized by this Act.

CUBA SERVICE OF THE VOICE OF AMERICA

SEC. 4. [The Director of the United States Information Agency shall establish within the Voice of America a Cuba Service (hereafter in this section referred to as the "Service").] *The Secretary of State shall administer within the Voice of America the Cuba Service (hereafter in this section referred to as the "Service").* The Service shall be responsible for all radio broadcasts to Cuba authorized by section 3. The [Director of the United States Information Agency] *Secretary of State* shall appoint a head of the Service and shall employ such staff as the head of the Service may need to carry out his duties. The Cuba Service shall be administered separately from other Voice of America functions and the head of the Cuba Service shall report directly to the Director of the Voice of America.

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ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

SEC. 6. (a) In order to assist the [United States Information Agency] *Department of State* in carrying out the purposes set forth in section 2, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of [the Agency] *the Department*. Support and services shall be provided on a reimbursable basis. Any reimbursement shall be credited to the appropriation from which the property, support, or services was derived.

(b) [The Agency] *The Department* may carry out the purposes of section 3 by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as [the Agency] *the Secretary of State* determines will be most effective.

FACILITY COMPENSATION

SEC. 7. (a) * * *

(b) Accordingly, the [Agency] *Department* may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the casts of equipment replaced (less depreciation) and associated technical and engineering costs.

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(d) There are authorized to be appropriated to the [Agency] *Department* $5,000,000 for use in compensating United States radio broadcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

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AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) There are authorized to be appropriated for the United States Information Agency $14,000,000 for fiscal year 1984, and $11,000,000 for fiscal year 1985 to carry out sections 3 and 4 of this Act. The amount obligated by the [United States Information Agency] *Department of State* in ensuing fiscal years shall be sufficient to maintain broadcasts to Cuba under this Act at rates no less than the fiscal year 1985 level.

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NATIONAL ENDOWMENT FOR DEMOCRACY ACT (TITLE V OF PUBLIC LAW 98–164)

TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY

SHORT TITLE

SEC. 501. This title may be cited as the "National Endowment for Democracy Act".

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GRANTS TO THE ENDOWMENT

SEC. 503. (a) The [Director of the United States Information Agency] *Secretary of State* shall make an annual grant to the Endowment to enable the Endowment to carry out its purposes as specified in section 502(b). Such grants shall be made with funds specifically appropriated for grants to the Endowment or with funds appropriated to [the Agency] *the Department of State* for the "Salaries and Expenses" account. Such grants shall be made pursuant to a grant agreement between the [Director] *Secretary of State* and the Endowment which requires that grant funds will only be used for activities which the Board of Directors of the Endowment determines are consistent with the purposes described in section 502(b), that the Endowment will allocate funds in accordance with subsection (e) of this section, and that the Endowment will otherwise comply with the requirements of this title. The grant agreement may not require the Endowment to comply with requirements other than those specified in this title.

(b) Funds so granted may be used by the Endowment to carry out the purposes described in section 502(b), and otherwise applicable limitations on the purposes for which funds appropriated to the [United States Information Agency] *Department of State* may be used shall not apply to funds granted to the Endowment.

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ELIGIBILITY OF THE ENDOWMENT FOR GRANTS

SEC. 504. (a) * * *

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(g) The financial transactions of the Endowment for each fiscal year shall be audited by the [United States Information Agency] *Department of State* under the conditions set forth in subsection (f)(1).

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FREEDOM OF INFORMATION

SEC. 506. (a) * * *

(b) PUBLICATION IN FEDERAL REGISTER.—For purposes of complying pursuant to subsection (a) with section 552(a)(1) of such title, the Endowment shall make available to the [Director of the United States Information Agency] *Secretary of State* such records and

other information as the [Director] *Secretary* determines may be necessary for such purposes. The [Director] *Secretary* shall cause such records and other information to be published in the Federal Register.

(c) REVIEW BY [USIA] *DEPARTMENT OF STATE*.—(1) In the event that the Endowment determines not to comply with a request for records under section 552, the Endowment shall submit a report to the [Director of the United States Information Agency] *Secretary of State* explaining the reasons for not complying with such request.

(2) If the [Director] *Secretary* approves the determination not to comply with such request, the [United States Information Agency] *Department of State* shall assume full responsibility, including financial responsibility, for defending the Endowment in any litigation relating to such request.

(3) If the [Director] *Secretary* disapproves the determination not to comply with such request, the Endowment shall comply with such request.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1986 AND 1987

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TITLE II—UNITED STATES INFORMATION AGENCY

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SEC. 208. BAN ON DOMESTIC ACTIVITIES BY THE USIA.

Except as provided in section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461) and this section, no funds authorized to be appropriated to the [United States Information Agency] *Department of State* shall be used to influence public opinion in the United States, and no program material prepared by the [United States Information Agency] *Department of State in carrying out its international information, educational, and cultural activies* shall be distributed within the United States. This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.). The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.

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TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES

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SEC. 603. SCHOLARSHIP PROGRAM AUTHORITY.

(a) IN GENERAL.—The President acting through the [United States Information Agency], *Department of State* shall provide

scholarships (including partial assistance) for undergraduate study at United States institutions of higher education by citizens and nationals of developing countries who have completed their secondary education and who would not otherwise have an opportunity to study in the United States due to financial limitations.

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SEC. 604. GUIDELINES.

The scholarship program under this title shall be carried out in accordance with the following guidelines:

(1) * * *

* * * * * * *

(11) The [United States Information Agency] *Department of State* shall recommend to each student, who receives a scholarship under this title for study at a college or university, that the student enroll in a course on the classics of American political thought or which otherwise emphasizes the ideas, principles, and documents upon which the United States was founded.

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SEC. 606. POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS.

(a) * * *

(b) [USIA] *STATE DEPARTMENT* FUNDED POSTGRADUATE STUDY IN THE UNITED STATES.—The Congress urges the [Director of the United States Information Agency] *Secretary of State* to expand opportunities for students of limited postgraduate study at United States institutions of higher education.

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SEC. 609. GENERAL AUTHORITIES.

(a) * * *

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(e) OTHER ACTIVITIES TO PROMOTE IMPROVED UNDERSTANDING.—Funds allocated by the [United States Information Agency] *Department of State*, or the agency primarily responsible for carrying out part I of the Foreign Assistance Act of 1961, for scholarships in accordance with this title shall be available to enhance the educational training and capabilities of the people of Latin America and the Caribbean and to promote better understanding between the United States and Latin America and the Caribbean through programs of cooperation, study, training, and research. Such funds may be used for program and administrative costs for institutions carrying out such programs.

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SECTION 1003 OF THE FASCELL FELLOWSHIP ACT

SEC. 1003. FELLOWSHIP BOARD.

(a) ESTABLISHMENT AND FUNCTION.—There is hereby established a Fellowship Board (hereafter in this title referred to as the

"Board"), which shall select the individuals who will be eligible to serve as Fellows.

(b) MEMBERSHIP.—The Board shall consist of [9] *8* members as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

[(3) An officer or employee of the United States Information Agency, designated by the Director of that Agency.

[(4)] *(3)* Six academic specialists in international affairs or foreign languages, appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate).

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SECTION 803 OF THE INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

SEC. 803. NATIONAL SECURITY EDUCATION BOARD.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a National Security Education Board.

(b) COMPOSITION.—The Board shall be composed of the following individuals or the representatives of such individuals:

(1) The Secretary of Defense, who shall serve as the chairman of the Board.

(2) The Secretary of Education.

(3) The Secretary of State.

(4) The Secretary of Commerce.

(5) The Director of Central Intelligence.

[(6) The Director of the United States Information Agency.]

[(7)] *(6)* The Chairperson of the National Endowment for the Humanities.

[(8)] *(7)* Six individuals appointed by the President, by and with the advice and consent of the Senate, who shall be experts in the fields of international, language, and area studies education and who may not be officers or employees of the Federal Government.

(c) TERM OF APPOINTEES.—Each individual appointed to the Board pursuant to [subsection (b)(7)] *subsection (b)(6)* shall be appointed for a period specified by the President at the time of the appointment, but not to exceed four years. Such individuals shall receive no compensation for service on the Board but may receive reimbursement for travel and other necessary expenses.

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FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1992 AND 1993

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TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY

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SEC. 208. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

(a) SHORT TITLE.—This section may be cited as the "North/South Center Act of 1991".

(b) PURPOSE.—The purpose of this section is to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities consistent with the objectives of the Mutual Educational and Cultural Exchange Act of 1961 and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

(c) NORTH/SOUTH CENTER.—In order to carry out the purpose of this section, the [Director of the United States Information Agency] *Secretary of State* shall provide for the operation in Florida of an educational institution known as the North/South Center, through arrangements with public, educational, or other nonprofit institutions.

(d) AUTHORITIES.—The [Director of the United States Information Agency] *Secretary of State*, in carrying out this section, may utilize the authorities of the Mutual Educational and Cultural Exchange Act of 1961. Section 704(b) of the Mutual Security Act of 1960 (22 U.S.C. 2056(b)) shall apply in the administration of this section. In order to carry out the purposes of this section, the North/South Center is authorized to use funds made available under this section to acquire property and facilities, by construction, lease, or purchase.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1992 and $10,000,000 for each subsequent fiscal year to carry out this section. Amounts appropriated under this section are authorized to be available until expended.

(f) REPEAL.—Effective October 1, 1991, the section enacted by the third proviso under the heading "EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is repealed.

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SEC. 212. USIA GRANTS.

(a) COMPETITIVE GRANT PROCEDURES.—Except as provided in subsection (b), the [United States Information Agency] *Department of State, in carrying out its international information, educational, and cultural functions,* shall work to achieve full and open competition in the award of grants.

(b) EXCEPTIONS.—The [United States Information Agency] *Department of State* may award a grant under procedures other than competitive procedures when—

(1) * * *

* * * * * * *

(c) COMPLIANCE WITH GRANT GUIDELINES.—

(1) After October 1, 1991, grants awarded by the [United States Information Agency shall substantially comply with United States Information Agency] *Department of State, in carrying out its international information, educational, and cultural functions, shall substantially comply with Department of State* grant guidelines and applicable circulars of the Office of Management and Budget.

(2) If the [Agency] *Department* determines that a grantee has not satisfied the requirement of paragraph (1), the [United States Information Agency] *Department of State* shall notify the grantee of the suspension of payments under a grant unless compliance is achieved within 90 days of such notice.

(3) The [Agency] *Department* shall suspend payments under any grant which remains in noncompliance 90 days after notification under paragraph (2).

[(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Director of the United States Information Agency shall submit a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on United States Information Agency action to comply with subsection (a).]

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PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

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SEC. 227. LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the Soviet Union, Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the [United States Information Agency] *Department of State,* shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the Soviet Union, Lithuania, Latvia, and Estonia who have completed

their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The [United States Information Agency] *Department of State* shall design ways to identify promising students for study in the United States.

(3) The [United States Information Agency] *Department of State* should develop and strictly implement specific financial need criteria. Scholarships under this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the Soviet Union, Lithuania, Latvia, and Estonia, particularly business administration, economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the Soviet republics, Lithuania, Latvia, and Estonia.

(12) The [United States Information Agency] *Department of State* shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

[(d) FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the

United States Information Agency $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993, to carry out this section.]

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MUTUAL SECURITY ACT OF 1960

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CHAPTER VII—CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

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SEC. 703. In order to carry out the purpose of this chapter the [Director of the United States Information Agency (hereinafter referred to as the "Director")] *Secretary of State (hereinafter referred to as the "Secretary")* shall provide for—

(1) the [establishment and] operation in Hawaii of an educational institution to be known as the Center for Cultural and Technical Interchange Between East and West, through arrangements with public, educational, or other nonprofit institutions;

* * * * * * *

SEC. 704. (a) In carrying out the provisions of this chapter, the Secretary may utilize his authority under the provisions of the United States Information and Educational Exchange Act of 1948, as amended.

(b) The Secretary may, in administering the provisions of this chapter, accept from public and private sources money and property to be utilized in carrying out the purposes and functions of the Center. In utilizing any gifts, bequests, or devises accepted there shall be available to the Secretary the same authorities as are available to him in accepting and utilizing gifts, bequests, and devises to the Foreign Service Institute under the provisions of the section 25 of the State Department Basic Authorities Act of 1956. For the purposes of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Secretary under the authority of this chapter shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

(c) The [Director] *Secretary* of the International Communication Agency shall make periodic reports, as he deems necessary, to the Congress with respect to his activities under the provisions of this chapter, and such reports shall include any recommendations for needed revisions in this chapter.

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SECTION 202 OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

SEC. 202. The [mission of the International Communication Agency] *mission of the Department of State in carrying out its information, educational, and cultural functions* shall be to further

the national interest by improving United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the [International Communication Agency] *Department of State* shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the [Agency] *Department*, to enhance understanding on the part of the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the [mission of the Agency] *mission described in this section*.

SECTION 2 OF THE SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) ACT OF 1989

SEC. 2. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.

(a) * * *

* * * * * * *

(c) SEED ACTIONS.—Assistance and other activities under the SEED Program (which may be referred to as "SEED Actions") shall include activities such as the following:

(1) * * *

* * * * * * *

(17) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the [United States Information Agency] *Department of State*.

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SECTION 7 OF THE FEDERAL TRIANGLE DEVELOPMENT ACT

SEC. 7. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION.

(a) * * *

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(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of [15] *14* members as follows:

(A) The Secretary of State or his delegate.

(B) The Secretary of Commerce or his delegate.

(C) The Secretary of Agriculture or his delegate.

(D) The United States Trade Representative or his delegate.

(E) The Administrator or his delegate.

[(F) The Director of the United States Information Agency or his delegate.]

[(G)] *(F)* The Chairman of the Corporation or his delegate.

[(H)] *(G)* The Mayor of the District of Columbia or his delegate.

[(I)] *(H)* The Chairman of the National Endowment for the Arts or his delegate.

[(J)] *(I)* 6 individuals appointed by the President one of whom shall be a resident and registered voter of the District of Columbia and all of whom shall be specially qualified to serve on the Commission by virtue of their education, training, or experience in international trade, commerce, cultural exchange, finance, business, or management of facilities similar to the international cultural and trade center described in section 8.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

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FOREIGN SERVICE ACT OF 1980

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TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

* * * * * * *

CHAPTER 2—MANAGEMENT OF THE SERVICE

* * * * * * *

SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a)[(1) The Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency may utilize the Foreign Service

personnel system with respect to their respective agencies in accordance with this Act.]

* * * * * * *

SEC. 210. BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by an individual appointed by the President and shall include one or more representatives of the Department of State, [the United States Information Agency, the United States International Development Cooperation Agency,] the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

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CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

* * * * * * *

SEC. 904. HEALTH CARE.—(a) The Secretary of State shall establish a health care program to promote and maintain the physical and mental health of members of the Service, and (when incident to service abroad) other designated eligible Government employees, [and] members of the families of such members and employees, *and for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h).*

* * * * * * *

(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third-party payer the reasonable costs incurred by the Department of State on behalf of such person for health care services to the same extent that the covered beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer for such costs.

(2) If the insurance policy, plan, contract, or similar agreement of that third-party payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the Secretary of State may collect from the third-party payer only the reasonable costs of the care provided less the deductible or copayment amount.

(3) A covered beneficiary shall not be required to pay any deductible or copayment for health care services under this subsection.

(4) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for care in the following circumstances shall operate to prevent collection by the Secretary of State under paragraph (1)—

(A) care provided directly or indirectly by a governmental entity;

(B) care provided to an individual who has not paid a required deductible or copayment; or

(C) care provided by a provider with which the third-party payer has no participation agreement.

(5) No law of any State, or of any political subdivision of a State, and no provision of any contract or agreement shall operate to prevent or hinder recovery or collection by the United States under this section.

(6) As to the authority provided in paragraph (1) of this subsection—

(A) the United States shall be subrogated to any right or claim that the covered beneficiary may have against a third-party payer;

(B) the United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this subsection; and

(C) the Secretary may compromise, settle, or waive a claim of the United States under this subsection.

(7) The Secretary shall prescribe regulations for the administration of this subsection and subsection (h). Such regulations shall provide for computation of the reasonable cost of health care services.

(8) Regulations prescribed under this subsection shall provide that medical records of a covered beneficiary receiving health care under this subsection shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought for the sole purpose of permitting the third party to verify—

(A) that the care or services for which recovery or collection is sought were furnished to the covered beneficiary; and

(B) that the provisions of such care or services to the covered beneficiary meets criteria generally applicable under the health plan contract involved, except that this paragraph shall be subject to the provisions of paragraphs (2) and (4).

(9) Amounts collected under this subsection or under subsection (h) from a third party payer or from any other payer shall be deposited in the Treasury as a miscellaneous offsetting receipt.

(10) For purposes of this section—

(A) the term "covered beneficiary" means an individual eligible to receive health care under this section whose health care costs are to be paid by a third-party payer under a contractual agreement with such payer;

(B) the term "services", as used in "health care services" includes products; and

(C) the term "third-party payer" means an entity that provides a fee-for-service insurance policy, contract, or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable

costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third-party payers covered by subsection (g).

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SECTION 8 OF THE EISENHOWER EXCHANGE FELLOWSHIP ACT OF 1990

SEC. 8. EXTENSION OF AU PAIR PROGRAMS.

The United States Information Agency shall continue to implement the au pair programs designated by the [Director of United States Information Agency] *Secretary of State* as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government. Notwithstanding section 555 of Public Law 100–461 and title III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 (pursuant to the enactment under section 555 of Public Law 100–461), the Director of the United States Information Agency is authorized to administer such au pair programs through fiscal year 1995 in a manner consistent with the requirements of the Mutual Educational and Cultural Exchange Act of 1961 and shall promulgate regulations regarding such au pair programs.

SECTION 602 OF THE NATIONAL AND COMMUNITY SERVICE ACT OF 1990

SEC. 602. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

(a) AUTHORIZATION OF ACTIVITIES; GRANTS OR CONTRACTS FOR EXCHANGES WITH FOREIGN COUNTRIES.—Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

The program under this section shall be coordinated by the [United States Information Agency] *Department of State.*

(b) TRANSFER OF FUNDS.—The President is authorized to transfer to the [appropriations account of the United States Information Agency] *appropriate appropriations account of the Department of State* such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State [and the United States Information Agency], as the President shall designate. Such transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

CONVENTION ON CULTURAL PROPERTY IMPLEMENTATION ACT

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TITLE III—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

SEC. 301. SHORT TITLE.

This title may be cited as the "Convention on Cultural Property Implementation Act".

* * * * * * *

SEC. 305. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, after consultation with the [Director of the United States Information Agency] *Secretary of State*, shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 307 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 306. CULTURAL PROPERTY ADVISORY COMMITTEE.

(A) * * *

* * * * * * *

(E) STAFF AND ADMINISTRATION.—

(1) The [Director of the United States Information Agency] *Secretary of State* shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and

assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the [Director of the United States Information Agency] *Secretary of State*, or when a majority of its members request a meeting in writing.

* * * * * * *

(i) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the [Director of the United States Information Agency] *Secretary of State*;

* * * * * * *

(2) GOVERNMENTAL INFORMATION.—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the [Director of the United States Information Agency] *Secretary of State*, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

* * * * * * *

SECTION 901 OF TITLE 31, UNITED STATES CODE

§ 901. Establishment of agency Chief Financial Officers

(a) * * *

(b)(1) The agencies referred to in subsection (a)(1) are the following:

(A) * * *

* * * * * * *

(2) The agencies referred to in subsection (a)(2) are the following:

[(A) The Agency for International Development.]

* * * * * * *

AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954".

* * * * * * *

TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

SEC. 201. GENERAL AUTHORITY.

The President shall establish a program under this title to provide agricultural commodities to foreign countries on behalf of the people of the United States to—

(1) * * *

* * * * * * *

Such program shall be implemented by the [Administrator] *Under Secretary for Development and Economic Affairs*.

SEC. 202. PROVISION OF AGRICULTURAL COMMODITIES.

(a) EMERGENCY ASSISTANCE.—Notwithstanding any other provision of law, the [Administrator] *Under Secretary for Development and Economic Affairs* may provide agricultural commodities to meet emergency food needs under this title through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the [Administrator] *Under Secretary for Development and Economic Affairs* determines appropriate to respond to the emergency.

(b) NON-EMERGENCY ASSISTANCE.—The [Administrator] *Under Secretary for Development and Economic Affairs* may provide agricultural commodities for non-emergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the [Administrator] *Under Secretary for Development and Economic Affairs* to use such commodities in accordance with this title.

* * * * * * *

(d) ELIGIBLE ORGANIZATIONS.—To be eligible to receive assistance under subsection (b) an organization shall be—

(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the [Administrator] *Under Secretary for Development and Economic Affairs*; or

(2) an intergovernmental organization, such as the World Food Program.

(e) SUPPORT FOR PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.—

(1) IN GENERAL.—Of the funds made available in each fiscal year under this title to the [Administrator] *Under Secretary for Development and Economic Affairs*, not less than $10,000,000, and not more than $13,500,000, shall be made available in each fiscal year to private voluntary organizations

and cooperatives to assist such organizations and cooperatives in—

(A) * * *

* * * * * * *

(2) REQUEST FOR FUNDS.—In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the [Administrator] *Under Secretary for Development and Economic Affairs*) when submitting a proposal to the [Administrator] *Under Secretary for Development and Economic Affairs* for an agreement under this title. Such request for funds shall include a specific explanation of—

(A) * * *

* * * * * * *

(3) ASSISTANCE WITH RESPECT TO SALE.—Upon the request of a private voluntary organization or cooperative, the [Administrator] *Under Secretary for Development and Economic Affairs* may provide assistance to that organization or cooperative with respect to the sale of agricultural commodities made available to it under this title.

(f) EFFECTIVE USE OF COMMODITIES.—To ensure that agricultural commodities made available under this title are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

(1) * * *

* * * * * * *

(4) recommend to the [Administrator] *Under Secretary for Development and Economic Affairs* methods of making assistance available that are the most appropriate for each local setting;

* * * * * * *

SEC. 203. GENERATION AND USE OF FOREIGN CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

(a) LOCAL SALE AND BARTER OF COMMODITIES.—An agreement entered into between the [Administrator] *Under Secretary for Development and Economic Affairs* and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this title may provide for the sale or barter in the recipient country of the commodities to be provided under such agreement.

(b) MINIMUM LEVEL OF LOCAL SALES.—In carrying out agreements of the type referred to in subsection (a), the [Administrator] *Under Secretary for Development and Economic Affairs* shall permit private voluntary organizations and cooperatives to sell, in recipient countries, an amount of commodities equal to not less than 10 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this title for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

(c) DESCRIPTION OF INTENDED USES.—A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this title shall include

in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, of any commodities provided under an agreement entered into between the [Administrator] *Under Secretary for Development and Economic Affairs* and the organization or cooperative.

SEC. 204. LEVELS OF ASSISTANCE.

(a) MINIMUM LEVELS.—

(1) MINIMUM ASSISTANCE.—Except as provided in paragraph (3), the [Administrator] *Under Secretary for Development and Economic Affairs* shall make agricultural commodities available for food distribution under this title in an amount that—

(A) * * *

* * * * * * *

(2) MINIMUM NON-EMERGENCY ASSISTANCE.—Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the [Administrator] *Under Secretary for Development and Economic Affairs* shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 202 in an amount that—

(A) * * *

* * * * * * *

(3) EXCEPTION.—The [Administrator] *Under Secretary for Development and Economic Affairs* may waive the requirements of paragraphs (1) and (2) for any fiscal year if the [Administrator] *Under Secretary for Development and Economic Affairs* determines that such quantities of commodities cannot be used effectively to carry out this title or in order to meet an emergency. In making a waiver under this paragraph, the [Administrator] *Under Secretary for Development and Economic Affairs* shall prepare and submit to the Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the reasons for the waiver.

(b) USE OF VALUE-ADDED COMMODITIES.—

(1) MINIMUM LEVELS.—Except as provided in paragraph (2), in making agricultural commodities available under this title, the [Administrator] *Under Secretary for Development and Economic Affairs* shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) be in the form of processed, fortified, or bagged commodities.

(2) WAIVER OF MINIMUM.—The [Administrator] *Under Secretary for Development and Economic Affairs* may waive the requirement of paragraph (1) for any fiscal year in which the [Administrator] *Under Secretary for Development and Economic Affairs* determines that the requirements of the programs established under this title will not be best served by the enforcement of such requirement under such paragraph.

SEC. 205. FOOD AID CONSULTATIVE GROUP.

(a) * * *

(b) MEMBERSHIP.—The Group shall be composed of—

(1) the [Administrator] *Under Secretary for Development and Economic Affairs*;

* * * * * * *

(5) representatives from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the [Administrator] *Under Secretary for Development and Economic Affairs*.

(c) CHAIRPERSON.—The [Administrator] *Under Secretary for Development and Economic Affairs* shall be the chairperson of the Group.

(d) CONSULTATIONS.—In preparing regulations, handbooks, or guidelines implementing this title, or significant revisions thereto, the [Administrator] *Under Secretary for Development and Economic Affairs* shall provide such proposals to the Group for review and comment. The [Administrator] *Under Secretary for Development and Economic Affairs* shall consult and, when appropriate, meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

SEC. 207. ADMINISTRATION.

(a) PROPOSALS.—

(1) TIME FOR DECISION.—Not later than 45 days after the receipt by the [Administrator] *Under Secretary for Development and Economic Affairs* of a proposal submitted—

(A) by a private voluntary organization or cooperative, with the concurrence of the appropriate United States field mission, for commodities; or

(B) by a United States field mission to make commodities available to a private voluntary organization or cooperative;

under this title, the [Administrator] *Under Secretary for Development and Economic Affairs* shall make a decision concerning such proposal.

(2) DENIAL.—If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

(b) NOTICE AND COMMENT.—Not later than 30 days prior to the issuance of a final guideline to carry out this title, the [Administrator] *Under Secretary for Development and Economic Affairs* shall—

(1) * * *

* * * * * * *

(c) REGULATIONS.—

(1) IN GENERAL.—The [Administrator] *Under Secretary for Development and Economic Affairs* shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this title.

(2) REQUIREMENTS.—The [Administrator] *Under Secretary for Development and Economic Affairs* shall develop regulations with the intent of—

(A) * * *

* * * * * * *

(3) HANDBOOKS.—Handbooks developed by the [Administrator] *Under Secretary for Development and Economic Affairs* to assist in carrying out the program under this title shall be designed to foster the development of programs under this title by eligible organizations.

* * * * * * *

TITLE III—FOOD FOR DEVELOPMENT

SEC. 301. BILATERAL GRANT PROGRAM.

(a) IN GENERAL.—The President shall establish a program under which agricultural commodities are donated in accordance with this title to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the [Administrator] *Under Secretary for Development and Economic Affairs*.

(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the [Administrator] *Under Secretary for Development and Economic Affairs* may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

SEC. 302. ELIGIBLE COUNTRIES.

(a) LEAST DEVELOPED COUNTRIES.—A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under this title if—

(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the [Administrator] *Under Secretary for Development and Economic Affairs* under subsection (b).

(b) INDICATORS OF FOOD DEFICIT COUNTRIES.—To make a finding under subsection (a)(2) that a country is a food deficit country and is characterized by high levels of malnutrition, the [Administrator] *Under Secretary for Development and Economic Affairs* must determine that the country meets all of the following indicators of national food deficit and malnutrition:

(1) * * *

* * * * * * *

(c) PRIORITY.—In determining whether and to what extent agricultural commodities shall be made available to least developed countries under this title, the [Administrator] *Under Secretary for Development and Economic Affairs* shall give priority to countries that—

(1) * * *

* * * * * * *

SEC. 303. GRANT PROGRAMS.

To carry out the policies and accomplish the objectives described in section 2, the [Administrator] *Under Secretary for Development and Economic Affairs* may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

SEC. 304. DIRECT USES OR SALES OF COMMODITIES.

Agricultural commodities provided to a least developed country under this section—

(1) * * *

(2) may be sold in such country by the government of the country or the [Administrator] *Under Secretary for Development and Economic Affairs* (or their designees) as provided in the agreement, and the proceeds of such sale used in accordance with this title.

SEC. 305. LOCAL CURRENCY ACCOUNTS.

(a) RETENTION OF PROCEEDS.—To the extent determined to be appropriate by the [Administrator] *Under Secretary for Development and Economic Affairs*, revenues generated from the sale, under section 304(2), of agricultural commodities provided under this title shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed for the benefit of such country in accordance with local currency agreements entered into between the recipient country and the [Administrator] *Under Secretary for Development and Economic Affairs*. The [Administrator] *Under Secretary for Development and Economic Affairs* may determine not to deposit such revenues in a separate account if—

(1) local currencies are to be programmed for specific economic development purposes listed in section 306(a); and

(2) the recipient country programs an equivalent amount of money for such purposes as specified in an agreement entered into by the [Administrator] *Under Secretary for Development and Economic Affairs* and the recipient country.

(b) OWNERSHIP AND PROGRAMMING OF ACCOUNTS.—The proceeds of sales pursuant to section 304(2) shall be the property of the recipient country or the United States, as specified in the applicable agreement. Such proceeds shall be utilized for the benefit of the recipient country, shall be jointly programmed by the [Administrator] *Under Secretary for Development and Economic Affairs* and the government of the recipient country, and shall be disbursed for the benefit of such country in accordance with local currency agreements between the [Administrator] *Under Secretary for Development and Economic Affairs* and that government.

(c) OVERALL DEVELOPMENT STRATEGY.—The [Administrator] *Under Secretary for Development and Economic Affairs* shall consider the local currency proceeds as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

SEC. 306. USE OF LOCAL CURRENCY PROCEEDS.

(a) * * *

* * * * * * *

(d) SUPPORT FOR CERTAIN EDUCATIONAL INSTITUTIONS.—If the [Administrator] *Under Secretary for Development and Economic Affairs* determines that local currencies deposited in a special account pursuant to this title are not needed for any of the activities prescribed in paragraphs (1) through (13) of subsection (a) or for any other specific economic development purpose in the recipient country, the [Administrator] *Under Secretary for Development and Economic Affairs* may use those currencies to provide support for any institution (other than an institution whose primary purpose is to provide religious education) located in the recipient country that provides education in agricultural sciences or other disciplines for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS

* * * * * * *

SEC. 402. DEFINITIONS.

As used in this Act:

(1) [ADMINISTRATOR] *UNDER SECRETARY FOR DEVELOPMENT AND ECONOMIC AFFAIRS*.—The term "[Administrator] *Under Secretary for Development and Economic Affairs*" means the [Administrator] *Under Secretary for Development and Economic Affairs* of the Agency for International Development, unless otherwise specified in this Act.

* * * * * * *

SEC. 403. GENERAL PROVISIONS.

(a) * * *

(b) CONSULTATIONS.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall consult with representatives from the International Monetary Fund, the International Bank for Reconstruction and Development, the World Bank, and other donor organizations to ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

(c) TRANSSHIPMENT.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments from countries designed to prevent or restrict the resale or transshipment to other countries, for use for other than domestic purposes, of agricultural commodities donated or purchased under this Act.

* * * * * * *

(g) PARTICIPATION OF PRIVATE SECTOR.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this Act.

(h) SAFEGUARD USUAL MARKETINGS.—In carrying out this Act, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or [Administrator] *Under Secretary for Development and Economic Affairs* determines would otherwise be made.

(i) MILITARY DISTRIBUTION OF FOOD AID.—

(1) IN GENERAL.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall attempt to ensure that agricultural commodities made available under this Act will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

(2) PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall not enter into an agreement under this Act to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, may authorize the handling or distribution of commodities by the military forces of a country in exceptional circumstances in which—

(i) nonmilitary channels are not available for such handling or distribution;

(ii) such action is consistent with the requirements of paragraph (1); and

(iii) the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

(C) REPORT.—Not later than 30 days after an authorization is provided under subparagraph (B), the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall prepare and submit to the appropriate committees of Congress a report concerning such authorization and include in any such report the reason for the authorization, including an explanation of why no alternatives to such handling or distribution were available.

(3) ENCOURAGEMENT OF SAFE PASSAGE.—When entering into agreements under this Act that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other relief supplies and to establish safe zones for medical and humanitarian treatment and evacuation of injured persons.

(j) VIOLATIONS OF HUMAN RIGHTS.—

(1) INELIGIBLE COUNTRIES.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall not enter into any agreement under this Act to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

(A) * * *

* * * * * * *

SEC. 404. AGREEMENTS.

(a) IN GENERAL.—Before entering into agreements under titles I and III for the provision of commodities, the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall consider the extent to which the recipient country is undertaking measures for economic development purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development.

(b) TERMS OF AGREEMENT.—An agreement entered into under this Act shall—

(1) * * *

* * * * * * *

(5) contain such other terms and conditions as the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, determines to be necessary.

(c) MULTI-YEAR AGREEMENTS.—

(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis under this Act shall be made available to recipient countries or to eligible organizations.

(2) EXCEPTION.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, may determine not to make assistance available on a multi-year basis with respect to a recipient country or an eligible organization if it is determined that assistance should be provided to such country or through such organization only on an annual basis because—

(A) * * *

* * * * * * *

(C) other circumstances, as determined by the Secretary or the [Administrator] *Under Secretary for Development*

and Economic Affairs, as appropriate, indicate there is only a need for a 1 year agreement.

(d) REVIEW OF AGREEMENTS.—The Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, may make a determination to terminate, or refuse to enter into, a multi-year agreement with respect to a recipient country if the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs* determines that such country is not fulfilling the objectives or requirements of this Act. In making such a determination, the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, may consider the extent to which the country is—

(1) * * *

* * * * * * *

SEC. 405. CONSULTATION.

The Secretary and the [Administrator] *Under Secretary for Development and Economic Affairs* shall cooperate and consult in the implementation of this Act.

* * * * * * *

SEC. 407. ADMINISTRATIVE PROVISIONS.

(a) * * *

* * * * * * *

(d) TITLES II AND III PROGRAM.—

(1) ACQUISITION.—The [Administrator] *Under Secretary for Development and Economic Affairs* shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under title II and title III.

(2) FULL AND OPEN COMPETITION.—No purchase of agricultural commodities from private stocks or purchase of ocean transportation services by the United States Government shall be financed under titles II and III unless such purchases are made on the basis of full and open competition utilizing such procedures as are determined necessary and appropriate by the [Administrator] *Under Secretary for Development and Economic Affairs*.

(4) OCEAN TRANSPORTATION SERVICES.—Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions relating to the making or performance of Federal Government contracts, the [Administrator] *Under Secretary for Development and Economic Affairs* may procure ocean transportation services under this Act under such full and open competitive procedures as the [Administrator] *Under Secretary for Development and Economic Affairs* determines are necessary and appropriate.

(e) TIMING OF SHIPMENTS.—In determining the timing of the shipment of agricultural commodities to be provided under this Act, the Secretary or the [Administrator] *Under Secretary for Development and Economic Affairs*, as appropriate, shall consider—

(1) * * *

* * * * * * *

(h) WORLD FOOD DAY REPORT.—On World Food Day, October 16 of each year, the President shall submit to the appropriate committees of Congress a report, prepared with the assistance of the Secretary and the [Administrator] *Under Secretary for Development and Economic Affairs*, assessing progress towards food security in each country receiving United States Government food assistance. Special emphasis should be given in such report to the nutritional status of the poorest populations in such countries.

* * * * * * *

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 29, 1995.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for the reconciliation recommendations approved by the House Committee on International Relations on September 27, 1995.

The estimate shows the budgetary effects of the committee's legislative proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Reconciliation Recommendations of the House Committee on International Relations.

3. Bill status: As ordered reported by the House Committee on International Relations on September 27, 1995.

4. Bill purpose: The bill would authorize the Secretary of State to recover from insurance companies the reasonable costs of health care services provided by the department and would reorganize and consolidate foreign affairs agencies.

5. Estimated cost to the Federal Government: The table summarizes the budgetary effects of the proposals on direct spending and authorizations of appropriations for the 1996–2002 period.

6. Basis of estimate: The estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later. The bill would authorize the Secretary of State to recover from insurance companies the reasonable costs of health care services provided by the department. The provision would increase offsetting receipts, mandatory payments for Federal Employee Health Benefits [FEHB], and discretionary appropriations. CBO estimates that the department will collect $4 million in 1996 and $11.5 million in 1997. Collections in 1998 through 2002 were estimated assuming that collections grow at the same rate as inflation in health care costs. The bill requires the department to deposit the collections in the Treasury as miscellaneous offsetting receipts.

CBO assumes that after a short lag, insurance companies would recover the amount paid to the State Department plus 15 percent for administrative overhead through higher FEHB premiums. The Government pays 72 percent of FEHB premiums; of this, 45 percent is paid through a mandatory Government payment for annuitants and 55 percent is paid through discretionary appropriations for active workers. Mandatory spending would average about $5 million a year, and discretionary spending would average $6 million a year.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DISTRICT SPENDING							
Receipts from insurers:							
Estimated budget authority	−4	−12	−13	−14	−14	−16	−17
Estimated outlays	−4	−12	−13	−14	−14	−16	−17
Government payments for annuitants' health benefits:							
Estimated budget authority	0	4	5	5	5	6	6
Estimated outlays	0	4	5	5	5	6	6
Total direct spending:							
Estimated budget authority	−4	−8	−8	−9	−9	−10	−11
Estimated outlays	−4	−8	−8	−9	−9	−10	−11
SPENDING SUBJECT TO APPROPRIATIONS ACTION [1]							
Agency payments for health benefits of active workers:							
Estimated authorization level	0	4	5	6	6	7	7
Estimated outlays	0	4	5	6	6	7	7

[1] The table shows the budgetary impact of the health care provisions in the bill; it does not reflect the potential budgetary impact of consolidating foreign affairs agencies.

The spending falls in budget functions 150 (international affairs) and 550 (health).

The bill would authorize the consolidation of foreign affairs agencies. The Arms Control and Disarmament Agency, the U.S. Information Agency and the Agency for International Development would be abolished, and their functions, personnel, unexpended appropriations, authorizations, assets and liabilities transferred to the Department of State. The Secretary of State would be granted limited authority to reorganize functions and to facilitate the transition. CBO cannot estimate the budgetary impact of consolidation because it could be accomplished in many ways. Costs or savings would depend on how the agencies are consolidated.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Joseph C. Whitehill, Jeffrey Lemieux, and Sunita D'Monte.

11. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report. Among the principal oversight activities which contributed to the committee's formulation of its recommendations to the Budget Committee were:

Extensive hearings and review of the executive branch's budget request for programs authorized by this legislation by the full Committee and by the Subcommittees on International Economic Policy and Trade; on International Operations and Human Rights; on the Western Hemisphere; on Africa; and on Asia and the Pacific; and

Ongoing consultations between committee members and staff and executive branch officials.

As a result of these oversight activities, the committee recommends that the House approve the committee's recommendations to the Budget Committee as reported.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

TITLE VII—COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 19, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR JOHN: Pursuant to the reconciliation directives contained in the Conference Report on House Concurrent Resolution 67, the budget resolution for fiscal year 1996, I am pleased to transmit the reconciliation recommendations for programs within the jurisdiction of the Committee on the Judiciary. This legislative language was approved by the full Committee on the Judiciary on September 12, 1995, by a vote of 18–12. A copy of the legislation (i.e. "Committee Print") is enclosed.

The budget resolution instructs the Committee on the Judiciary to report changes in laws within its jurisdiction that provide direct spending levels of $2,580,000,000 in fiscal year 1996, $13,734,000,000 for fiscal year 1996 through fiscal year 2000, and $19,530,000,000 for fiscal year 1996 through fiscal year 2002.

I hope that these recommendations will be of assistance to your committee in meeting the reconciliation targets.

Sincerely,

HENRY J. HYDE,
Chairman.

Attachment.

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PURPOSE AND SUMMARY

Under House Concurrent Resolution 67, the concurrent resolution on the budget adopted earlier this year, the authorizing committees are to report legislation necessary to achieve specified direct spending and revenue levels. That budget resolution directs the Committee on the Judiciary to produce budget savings of $119 million per year for fiscal years 1999, 2000, 2001, and 2002, or

$476 million for the 4-year period. The proposed legislation approved by the committee meets the committee's budget reconciliation instructions by extending patent fee surcharges established in the Omnibus Budget Reconciliation Act of 1990 for an additional 4 years.

BACKGROUND AND NEED FOR THE LEGISLATION

Before fiscal year 1991, Congress funded the Patent and Trademark Office ["PTO"] through a combination of appropriations and the user fees set by statute in 35 U.S.C. § 41. As part of the agreement that came out of the 1990 budget summit, Congress decided that the PTO should become completely funded by user fees.

To accomplish that purpose, section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. § 41 note) established a surcharge on the existing statutory fees. Section 10101 originally provided for these surcharges only in the fiscal years 1991 through 1995. In each of those years, the legislation provided that the surcharge would provide a specified amount of revenue—$109.807 million in fiscal year 1991; $95 million in fiscal year 1992; $99 million in fiscal year 1993; $103 million in fiscal year 1994; and $107 million in fiscal year 1995. The legislation left it to the Commissioner of Patents and Trademarks to decide how the surcharges would be set to raise these amounts.

The legislation provided that these amounts would be used for the benefit of the PTO "to the extent provided in appropriations acts." Over the years, Congress has appropriated approximately 90 percent of this money for the use of the PTO.

The Omnibus Budget Reconciliation Act of 1993 extended these surcharges through fiscal year 1998. That legislation called for the surcharges to raise the following amounts: $111 million in fiscal year 1996; $115 million in fiscal year 1997; and $119 million in fiscal year 1998. The 1993 act made no change to the mechanism by which the surcharges were set.

This year's budget resolution directed the Committee on the Judiciary to authorize a contribution to deficit reduction from programs under the committee's jurisdiction of $119 million per year for the fiscal years 1999 through 2002. The budget resolution conferees expected that extending the patent fee surcharges for an additional 4 years would be the most likely option for the committee in making this contribution.

Accordingly, the proposed legislation approved by the committee extends the patent fee surcharges at the fiscal year 1998 level of $119 million for the fiscal years 1999 through 2002. The proposed legislation does not change the mechanism for setting the surcharges, and the revenues raised by the surcharge remain subject to appropriations.

HEARINGS

The committee held no hearings on this proposed legislation during the 104th Congress.

SECTION-BY-SECTION ANALYSIS

Sec. 7001. Patent and trademark fees

The proposed legislation approved by the committee consists of one section numbered 7001 so that it can be included within the omnibus budget reconciliation bill at the appropriate place. Section 7001 amends section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. § 41 note) to extend the patent fee surcharges established by that act through fiscal year 2002.

Under current law, these patent fee surcharges are set to expire at the end of fiscal year 1998. Section 7001 extends these patent fee surcharges at the fiscal year 1998 level of $119 million per year for the fiscal years 1999 through 2002, or $476 million for the 4-year period.

Under current law, the statute sets forth an overall amount that must be raised through the surcharge and the Commissioner of Patent and Trademarks is directed to set the surcharges so as to raise that overall amount. Section 7001 makes no change to the existing mechanism for setting the fees.

CHANGES IN EXISTING LAW MADE BY THE TITLE VII OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by title VII of the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

* * * * * * *

TITLE X—MISCELLANEOUS USER FEES AND OTHER PROVISIONS

* * * * * * *

Subtitle B—Patent and Trademark Office User Fees

SEC. 10101. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES.—There shall be a surcharge, during fiscal years 1991 through [1998] *2002*, on all fees authorized by subsections (a) and (b) of section 41 of title 35, United States Code, in order to ensure that the amounts specified in subsection (c) are collected.

(b) USE OF SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all surcharges collected by the Patent and Trademark Office—

(1) * * *

(2) in fiscal years 1992 through [1998] *2002*—

(A) shall be credited to a separate account established in the Treasury and ascribed to the Patent and Trademark

Office activities in the Department of Commerce as offsetting receipts, and

(B) shall be available only to the Patent and Trademark Office, to the extent provided in appropriation Acts, for all authorized activities and operations of the office, including all direct and indirect costs of services provided by the office, and

(3) shall remain available until expended.

(c) ESTABLISHMENT OF SURCHARGES.—In fiscal years 1991 through [1998] *2002*, the Commissioner of Patents and Trademarks shall establish surcharges under subsection (a), subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, but not more than the following amounts, of patent and trademark user fees are collected:

(1) $109,807,000 in fiscal year 1991.
(2) $95,000,000 in fiscal year 1992.
(3) $99,000,000 in fiscal year 1993.
(4) $103,000,000 in fiscal year 1994.
(5) $107,000,000 in fiscal year 1995.
(6) $111,000,000 in fiscal year 1996.
(7) $115,000,000 in fiscal year 1997.
(8) $119,000,000 in fiscal year 1998.
(9) $119,000,000 in fiscal year 1999.
(10) $119,000,000 in fiscal year 2000.
(11) $119,000,000 in fiscal year 2001.
(12) $119,000,000 in fiscal year 2002.

* * * * * * *

COMMITTEE CONSIDERATION

On September 12, 1995, the full committee met in open session and ordered reported to the Budget Committee for inclusion in the omnibus budget reconciliation bill the proposed legislation contained in the committee print by a rollcall vote of 18 to 12, a quorum being present.

VOTE OF THE COMMITTEE

The following rollcall took place during committee deliberations on the proposed legislation contained in the committee print (September 12, 1995).

1. The motion to favorably report the proposed legislation contained in the committee print to the Committee on the Budget. The motion was agreed to by a rollcall vote of 18 to 12.

ROLLCALL NO. 1

Subject: Proposed language for insertion in omnibus budget reconciliation bill. Adopted 18 to 12.

	Ayes	Nays	Present
Mr. Moorhead	X		
Mr. Sensenbrenner	X		
Mr. McCollum	X		
Mr. Gekas	X		
Mr. Coble	X		
Mr. Smith (TX)	X		

	Ayes	Nays	Present
Mr. Schiff	X		
Mr. Gallegly			
Mr. Canady	X		
Mr. Inglis	X		
Mr. Goodlatte	X		
Mr. Buyer	X		
Mr. Hoke	X		
Mr. Bono	X		
Mr. Heineman	X		
Mr. Bryant (TN)			
Mr. Chabot	X		
Mr. Flanagan	X		
Mr. Barr	X		
Mr. Conyers		X	
Mrs. Schroeder		X	
Mr. Frank		X	
Mr. Schumer			
Mr. Berman		X	
Mr. Boucher		X	
Mr. Bryant (TX)		X	
Mr. Reed		X	
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt		X	
Mr. Becerra			
Mr. Serrano			
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Mr. Hyde, Chairman	X		
Total	18	12	

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the committee sets forth, with respect to the proposed legislation set forth in the committee print, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 18, 1995.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the reconciliation recommendations of the House Committee on the Judiciary.

The estimate shows the budgetary effects in 1996–2002 of the committee's legislative proposals. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted on November 15, 1995.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Reconciliation Recommendations of the House Committee on the Judiciary.

3. Bill status: As ordered reported by the House Committee on the Judiciary on September 12, 1995.

4. Bill purpose: Title VII would extend through 2002 the surcharge on patent fees that was enacted in the Omnibus Budget Reconciliation Act of 1990 and extended by the Omnibus Budget Reconciliation Act of 1993. The 1990 act instructed the Commissioner on Patents and Trademarks to levy a surcharge on patent fees and to adjust them so as to collect amounts specified in the act. The surcharge receipts would continue to be deposited in a special fund in the U.S. Treasury as offsetting receipts, and would be available to the Patent and Trademark Office only to the extent provided in advance in appropriations acts.

5. Estimated cost to the Federal Government: CBO estimates that enacting title VII would result in additional offsetting receipts of $238 million over the 1996–2000 period and $476 million over the 1996–2002 period.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Spending under current law:								
Estimated budget authority	−107	−111	−115	−119	.....	.....	.....	.....
Estimated outlays	−107	−111	−115	−119	.....	.....	.....	.....
Proposed changes:								
Estimated budget authority	.....	.....	.....	.....	−119	−119	−119	−119
Estimated outlays	.....	.....	.....	.....	−119	−119	−119	−119
Projected spending:								
Estimated budget authority	−107	−111	−115	−119	−119	−119	−119	−119
Estimated outlays	−107	−111	−115	−119	−119	−119	−119	−119

The costs of this bill fall within budget function 370.

6. Basis of estimate: The bill specifies that the Commissioner of the Patent and Trademark Office should revise the surcharges so as to ensure that the amount collected is $119 million in each of the fiscal years 1999–2002. This estimate assumes that those targets are attained.

7. Estimated cost to State and local governments: None.

8. Estimated comparison: None.

9. Estimated CBO estimate: None.

10. Estimated prepared by: Rachel Forward.

11. Estimated approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the findings

and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

TITLE VIII—COMMITTEE ON NATIONAL SECURITY

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATIONAL SECURITY,
Washington, DC, September 26, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: The Committee on National Security convened on September 20, 1995, to recommend changes in mandatory spending and receipts to the Federal Treasury that would comply with the reconciliation instructions contained in House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal year 1996. The recommendations were agreed to on a vote of 50–0. The recommendations adopted by the committee are provided in the enclosed package, which contains legislative language, report language, and a Congressional Budget Office cost estimate.

The committee's effort to meet the reconciliation targets is premised on three policy assumptions contained in this year's budget resolution: First, adjusting the payment dates of military retiree cost-of-living allowances to bring the payment dates into line with that of Federal civilian retirees; second, sale of all six sites that comprise the naval petroleum reserve; and third, providing for the sale of certain raw materials from the national defense stockpile.

I believe the enclosed recommendations will meet or exceed the fiscal year 1996 budget reconciliation targets of the Committee on National Security.

I appreciate your assistance and cooperation, and that of your staff, during the reconciliation process. I look forward to continuing our dialogue as the process moves forward.

With warm personal regards, I am

Sincerely,

FLOYD D. SPENCE,
Chairman.

Attachments.

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PURPOSE AND SUMMARY

House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal year 1996, and House Report 104–159, the conference report accompanying House Concurrent Resolution 67, contain budget reconciliation instructions for the Committee on National Security. These instructions seek to achieve mandatory spending targets deemed necessary in order to balance the Federal budget by the year 2002. Pursuant to those instructions, on September 20, 1995, the committee considered and now recommends implementing legislation designed to meet the spending targets contained in the budget resolution.

The committee's effort to meet the reconciliation targets is premised on three policy assumptions: First, adjusting the payment dates of military retiree cost-of-living allowances [COLA's] to bring the payment dates into line with that of Federal civilian retirees; second, the sale by the end of fiscal year 1996 of all six sites that comprise the naval petroleum reserve [NPR]; and third, the sale by the end of fiscal year 1996 of certain raw materials from the national defense stockpile.

The committee derives particular satisfaction from the provision that would adjust the date on which military retiree COLA's are paid to bring the date into conformity with the date on which Federal civilian retirees receive their COLA payments. Under current law, military retirees receive their COLA's later in the fiscal year than their Federal civilian counterparts. The committee's recommended provision would eliminate this inequity by extending the same treatment to both categories of retirees. Enactment of this provision into law would require an increase in mandatory spending authority of approximately $1.8 billion over the next 7 years.

The Congressional Budget Office estimates that the recommended sale of all six sites constituting the naval petroleum reserve would result in increased revenue to the Federal Treasury of $1.55 billion in fiscal year 1996. The committee recognizes that sale of the NPR is necessary to meet deficit reduction targets associated with balancing the Federal budget.

Finally, the committee also recommends a provision that would provide new authorization for the Department of Defense to sell limited amounts of cobalt, aluminum, platinum, palladium, germanium, columbium ferro, and rubber from the national defense stockpile. The proceeds from the sale of these materials would be deposited into the general fund of the Treasury rather than into the stockpile transaction fund. $649 million in mandatory savings is associated with this provision over the next 7 years. Once the revenues from the sale of these materials have been generated, the new authority would be terminated.

HEARINGS

The Committee on National Security conducted no hearings with respect to budget reconciliation. However, on March 22, 1995, the Subcommittee on Readiness held a hearing to consider the proposed sale of the naval petroleum reserves, and a provision to this

effect is included in the committee's budget reconciliation recommendations.

SECTION-BY-SECTION EXPLANATION

SUBTITLE A—MILITARY RETIRED PAY

Section 8001—Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal years 1996, 1997, and 1998

This section would advance the month in which military retiree cost-of-living adjustments [COLA's] may be paid during fiscal years 1996, 1997, and 1998 from September during each of those years to March 1996, December 1996, and December 1997, respectively. This change corrects the disparity between military and Federal civilian retirees regarding eligibility for annual COLA's created by the 1993 Omnibus Budget Reconciliation Act [OBRA]. The concurrent resolution on the budget for fiscal year 1996 allocates a total of $1.8 billion to the military retirement trust fund during fiscal years 1996–98 and relieves the Committee on National Security of the obligation to achieve the mandatory spending savings dictated in the 1993 OBRA.

The concurrent resolution on the budget for fiscal year 1994 proposed limits to civilian and military retirement COLA's. Imposition of these limits was projected to save $3.277 billion during fiscal years 1994–98. The resolution limited COLA's for civilian and military retirees to one-half the rate of inflation for retirees under age 62, up to a maximum COLA in fiscal year 1994 of $400.

Because 55 percent of the military retirees were under age 62, as compared to only 15 percent of civilian retirees, the bulk of the required savings, $2.489 billion, fell to the Committees on Armed Services of the Senate and the House of Representatives, the committees with jurisdiction over the military retirement system. Federal civilian retirement programs were only required to save $788 million.

The Committees on Armed Services of the Senate and the House of Representatives rejected the age-based COLA plan proposed in the 1994 budget resolution in favor of a rolling COLA that delayed COLA's for all retirees, except disabled retirees and survivor annuitants. Accordingly, the 1993 OBRA delayed the month for which COLA could be paid to military retirees from December of fiscal years 1994–98 to March 1994 and September during each of the remaining years. The OBRA only delayed Federal civilian retirees' COLA's until March of fiscal years 1994–96.

The National Defense Authorization Act for Fiscal Year 1995 used discretionary operations and maintenance [O&M] funds to advance the first month in which military retirement COLA's could be paid from September to March 1995, the first month of COLA eligibility for Federal civilian retirees. The cost to move the COLA eligibility date for military retirees during fiscal year 1995 was $376 million. $403 million in discretionary operations and maintenance funding was included for the same purpose in the House-passed version of the national Defense authorization bill for fiscal year 1996, H.R. 1530. The change adopted by the Committee on National Security pursuant to this year's reconciliation instructions

would permanently correct the disparity in COLA payment dates for military and civilian retirees.

SUBTITLE B—NAVAL PETROLEUM RESERVES

Section 8011—Sale of naval petroleum reserves

H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996, as passed by the House of Representatives, contains a provision that would require the sale of Naval Petroleum Reserve Numbered 1, Elk Hills, CA [Elk Hills]. H.R. 1530 also would require a study of the other five reserves which comprise the naval petroleum reserve and a report to Congress by December 31, 1995 making recommendations for the most cost effective alternatives for disposing of these other reserves.

In its reconciliation instructions to the committee, the Committee on the Budget recommended that all six of the naval petroleum reserves be sold during fiscal year 1996. According to estimates by the Congressional Budget Office [CBO], sale of the reserves would generate $1.55 billion in receipts to the Federal Government—$1.5 billion for Elk Hills and $50 million for the other five reserves.

To meet the committee's direct spending targets provided in the concurrent resolution on the budget for fiscal year 1996, the committee recommends a provision, section 8011, that would require the sale of all of the reserves by the end of fiscal year 1996. The provision would require the Secretary of Energy to select independent experts in the valuation of oil and gas fields who would conduct separate assessments of the fair market value of the reserves. The secretary also would be required to retain the services of an investment banker to independently administer the sale of the reserves. These decisions would be made according to time lines specified in the provision.

With respect to Elk Hills in particular, the provision would finalize the equity interests between the United States and Chevron Oil Co. In addition, the provision would resolve a disputed land claim by the State of California in the same manner as is provided for in H.R. 1530. Finally, the provision would provide procedural safeguards to ensure that the final sale price for the reserves reflects the true worth of the reserves.

The committee is concerned that the reconciliation-imposed requirement to sell all the naval petroleum reserves within 1 year may cause a delay in the sale of Elk Hills, the single most valuable reserve. The time lines imposed by section 8011 in order to accomplish the sale are ambitious. Finally, the committee believes that the CBO estimate of $1.55 billion in receipts to the Federal Government that would be achieved by the sale may not be an accurate projection of the ultimate sales price for the reserves.

SUBTITLE C—NATIONAL DEFENSE STOCKPILE

Section 8021—Disposal of certain materials in national defense stockpile for deficit reduction

This section would provide new authorization for the Department of Defense to sell specified quantities of cobalt, aluminum, platinum, palladium, germanium, columbium ferro, and rubber from the national defense stockpile. The proceeds from the sale of these ma-

terials would be deposited into the general fund of the Treasury rather than into the stockpile transaction fund, as would be the case for other sales from the stockpile.

The concurrent resolution on the budget for fiscal year 1996 contained a policy assumption related to reform of the military retirement system to achieve savings in direct spending of $649 million through fiscal year 2002. Interim spending reduction targets of $21 million in fiscal year 1996 and $338 million through fiscal year 2000 were also mandated. Rather than subject some uniformed personnel to a retroactive change to the military retirement system, the committee recommends a limited sale of select materials from the stockpile. Such sales would generate sufficient revenues to meet interim and overall spending targets and would avoid hardships for career military personnel that would have been caused by a change to the retired pay formula.

In selecting the specific materials for disposal, the committee was careful to choose only those materials that are not critical to the Department of Defense and whose sale would have little or no impact upon domestic producers or users of the materials. Additionally, the authority to sell these materials would terminate once sufficient revenue is generated to meet the targets specified by the concurrent resolution on the budget.

CHANGES IN EXISTING LAW MADE BY TITLE VIII THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

* * * * * * *

Subtitle A—General Military Law

* * * * * * *

PART II—PERSONNEL

* * * * * * *

CHAPTER 71—COMPUTATION OF RETIRED PAY

* * * * * * *

§ 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

(a) * * *

(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

(1) * * *

(2) PRE-AUGUST 1, 1986 MEMBERS.—

(A) GENERAL RULE.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

(i) the price index for the base quarter of that year, exceeds

(ii) the base index.

(B) SPECIAL RULES FOR FISCAL YEARS 1994 [THROUGH 1998.—

[(i) FISCAL YEAR 1994.—In the case of an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1993, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1994.

[(ii) FISCAL YEARS 1995 THROUGH 1998.—In the case of] *THROUGH 1996.—In the case of* an increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1 [of 1994, 1995, 1996, or 1997] *of 1993, 1994, or 1995*, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be [September] *March* of the following year.

(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraph (B) does not apply with respect to the retired pay of a member retired under chapter 61 of this title.

* * * * * * *

Subtitle C—Navy and Marine Corps

* * * * * * *

PART IV—GENERAL ADMINISTRATION

* * * * * * *

CHAPTER 641—NAVAL PETROLEUM RESERVES

Sec.
7420. Definitions.
7421. Jurisdiction and control.
7421a. Sale of naval petroleum reserves.

* * * * * * *

§ 7421a. Sale of naval petroleum reserves

(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to the lands owned or controlled by the United States inside the naval petroleum and oil shale reserves established by this chapter. In the case of Naval Petroleum Reserve Numbered 1, the lands to be sold shall include sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

(2) Not later than September 30, 1996, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the naval petroleum reserves.

(b) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than January 1, 1996, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in each naval petroleum reserve. In making their assessments for each naval petroleum reserve, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if it were not sold, adjusted for any anticipated increases in tax revenues that would result if it were sold. The independent experts shall complete their assessments not later than June 1, 1996. In setting the minimum acceptable price for each naval petroleum reserve, the Secretary shall consider the average of the five assessments regarding the reserve or, if more advantageous to the Government, the average of three assessments after excluding the high and low assessments.

(2) Not later than March 1, 1996, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of the naval petroleum reserves under this section. The Secretary may enter into the contracts required under this paragraph and paragraph (1) on a noncompetitive basis.

(3) Not later than June 1, 1996, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of each naval petroleum reserve, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. Each draft contract shall identify all equipment and facilities to be included in the sales. Each draft contract, including the terms and provisions of the sale of the interest of the United States in the naval petroleum reserves, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(4) Not later than July 1, 1996, the Secretary shall publish an invitation for bids for the purchase of the naval petroleum reserves.

(5) Not later than September 1, 1996, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in the naval petroleum reserves, or a particular reserve, that meets or exceeds the minimum acceptable price determined under paragraph (1). The Secretary may accept an offer for only a portion of a reserve so long as the entire reserve is still sold under this section at a price that meets or exceeds the minimum acceptable price.

(c) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in a naval petroleum reserve, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

(d) SPECIAL RULES PREPARATORY TO SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) Not later than June 1, 1996, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in that reserve as the Secretary considers appropriate. The Secretary may enter into the contract required under this paragraph on a noncompetitive basis.

(3) If, on the effective date of this section, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in the manner provided in the unit plan contract not later than June 1, 1996. Such resolution shall be considered final for all purposes under this section.

(4) In this section, the term "unit plan contract" means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 (Elk Hills) entered into on June 19, 1944.

(e) PRODUCTION ALLOCATION REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in that reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of that reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

(2) The purchaser of Naval Petroleum Reserve Numbered 1 shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

(f) MAINTAINING PRODUCTION PENDING SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce that reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract.

The definition of maximum efficient rate in section 7420(6) of this title shall not apply to Naval Petroleum Reserve Numbered 1.

(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date of this section, for the purchase of production from any part of the United States' share of the naval petroleum reserves, the sale of the interest of the United States in the reserves shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date of this section for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

(2) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of that reserve.

(3) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of that reserve.

(h) OFFER OF SETTLEMENT OF STATE OF CALIFORNIA CLAIMS REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) In connection with the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall offer to settle all claims against the United States by the State of California and the Teachers' Retirement Fund of the State of California with respect to lands within that reserve, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. Subject to paragraph (2), the Secretary shall offer in settlement of such claims—

(A) a payment from funds provided for this purpose in advance in appropriation Acts;

(B) a grant of land pursuant to sections 2275 and 2276 of the Revised Statutes of the United States (43 U.S.C. 851 and 852) so long as such land is not generating revenue for the United States;

(C) any other option that would not be inconsistent with the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.); or

(D) any combination of subparagraphs (A), (B), and (C).

(2) The value of any payment, grant, or option (or combination thereof) offered as settlement under paragraph (1) may not exceed an amount equal to seven percent of the proceeds from the sale of Naval Petroleum Reserve Numbered 1, after deducting the costs incurred to conduct the sale of that reserve.

(3) Acceptance of the settlement offered under paragraph (1) shall be subject to the condition that all claims against the United States by the State of California or the Teachers' Retirement Fund of the State of California are released with respect to lands within the Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve.

The Secretary may specify the manner in which the release of such claims shall be evidenced.

(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of a naval petroleum reserve or to the lands in the naval petroleum reserves subject to sale under this section upon the completion of the sale.

(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of the naval petroleum reserves.

(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of the naval petroleum reserves under this section. However, the Secretary may not enter into a contract for the sale of a naval petroleum reserve until the end of the 15-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives that the Secretary has accepted an offer under subsection (b)(5) for the sale of that reserve.

* * * * * * *

SECTION 8114A OF THE ACT OF SEPTEMBER 30, 1994

AN ACT making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

SEC. 8114A. (a) * * *

[(b) FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES.—

[(1) Subject to paragraph (2), subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

[(A) in the heading, by striking out "THROUGH 1998" and inserting in lieu thereof "THROUGH 1996"; and

[(B) in clause (ii)—

[(i) by striking out "THROUGH 1998" and inserting in lieu thereof "AND 1996";

[(ii) by striking out "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1994 or 1995"; and

[(iii) by striking out "September" and inserting in lieu thereof "March".

[(2) Paragraph (1) shall be effective only if—

[(A) the President, in the budget of the President for fiscal year 1996, proposes legislation which if enacted would be qualifying offsetting legislation; and

[(B) there is enacted during the first session of the 104th Congress qualifying offsetting legislation.

[(3) If the conditions in paragraph (2) are met, then the amendments by paragraph (1) shall take effect on January 1, 1996.

[(4) For purposes of this subsection:

[(A) The term "qualifying offsetting legislation" means legislation (other than an appropriations Act) that includes provisions that—

[(i) offset fully the increased outlays for each of fiscal years 1996, 1997, and 1998 to be made from the Department of Defense Military Retirement Fund by reason of the amendment made by paragraph (1);

[(ii) expressly state that they are enacted for the purpose of the offset described in clause (i); and

[(iii) are included in full on the PayGo scorecard.

[(B) The term "PayGo scorecard" means the estimates that are made with respect to fiscal years through fiscal year 1998 by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.]

ROLLCALL VOTES

In accordance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, one rollcall vote was taken in connection with the committee's consideration of reconciliation legislation. That vote is reflected below. The reconciliation implementing legislation attached hereto was ordered reported favorably to the Committee on the Budget, a quorum being present, by a vote of 50 to 0.

COMMITTEE ON NATIONAL SECURITY—104TH CONGRESS ROLLCALL

Final passage of budget reconciliation substitute. Date: September 20, 1995. Voice vote: Ayes, Nays.

Representative	Aye	Nay	Present
Mr. Spence	X		
Mr. Stump	X		
Mr. Hunter	X		
Mr. Kasich			
Mr. Bateman	X		
Mr. Hansen	X		
Mr. Weldon	X		
Mr. Dornan	X		
Mr. Hefley	X		
Mr. Saxton			
Mr. Cunningham	X		
Mr. Buyer	X		
Mr. Torkildsen	X		
Mrs. Fowler	X		
Mr. McHugh	X		
Mr. Talent	X		
Mr. Everett	X		
Mr. Bartlett	X		
Mr. McKeon	X		
Mr. Lewis	X		
Mr. Watts	X		
Mr. Thornberry	X		
Mr. Hostettler	X		
Mr. Chambliss	X		
Mr. Hilleary	X		
Mr. Scarborough	X		
Mr. Jones	X		
Mr. Longley	X		

Representative	Aye	Nay	Present
Mr. Tiahrt	X		
Mr. Hastings	X		
Mr. Dellums	X		
Mr. Montgomery	X		
Mrs. Schroeder	X		
Mr. Skelton	X		
Mr. Sisisky			(1)
Mr. Spratt	X		
Mr. Ortiz	X		
Mr. Pickett	X		
Mr. Evans	X		
Mr. Tanner	X		
Mr. Browder	X		
Mr. Taylor	X		
Mr. Abercrombie	X		
Mr. Edwards	X		
Mr. Tejeda	X		
Mr. Meehan	X		
Mr. Underwood	X		
Ms. Harman	X		
Mr. McHale	X		
Mr. Geren	X		
Mr. Peterson	X		
Mr. Jefferson			
Ms. DeLauro	X		
Mr. Ward			
Mr. Kennedy	X		
Total	50		

[1] A unanimous consent request by Mr. Dellums to indicate that Mr. Sisisky was absent due to illness was agreed to by the full committee.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of Rules of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 403 of the Congressional Budget of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 1995.

Hon. FLOYD SPENCE,
Chairman, Committee on National Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the reconciliation recommendations approved by the House Committee on National Security on September 20, 1995.

The estimate shows the budgetary effects of the proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes that the legislation will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Title VIII, Reconciliation Recommendations of the House Committee on National Security.

3. Bill status: As approved by the House Committee on National Security on September 20, 1995.

4. Bill purpose: The legislation would advance military retirement cost-of-living adjustments [COLA's] and would require the administration to sell both the naval petroleum reserves and various materials in the national defense stockpile.

5. Estimated cost to the Federal Government: Table 1 summarizes the budgetary effects of the proposals. It shows the effects of the bill on direct spending, receipts from asset sales, and authorizations of appropriations for the 1996–2002 period. Table 2 shows the budgetary impacts of advancing military retirement COLA's; table 3 details the effects of selling the naval petroleum reserves; and table 4 shows the increased receipts from the sale of materials contained in the national defense stockpile.

6. Basis of estimate: This estimate assumes that the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

Military Retirement Cost-of-Living Adjustments.—Military retirement annuities are adjusted to reflect increases in the Consumer Price Index [CPI]. The cost-of-living adjustment for nondisabled annuitants will appear in the checks paid in October for 1996–98 and in January thereafter. Subtitle A would provide the COLA for 1996 6 months sooner at a cost of $403 million. In 1997 and 1998, the COLA would be paid 9 months sooner at a cost of $686 million and $716 million, respectively. The estimated costs are based on the budget resolution's assumptions for the CPI. COLA's for disabled retirees and survivor beneficiaries would not be affected by this provision.

TABLE 1.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON NATIONAL SECURITY

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Direct spending:								
Estimated budget authority	0	403	1,037	1,186	445	424	401	379
Estimated outlays	0	403	1,037	1,186	445	424	401	379
Receipts from asset sales (national defense stockpile and naval petroleum reserves):								
Estimated budget authority	0	−21	−1,629	−79	−79	−80	−155	−156
Estimated outlays	0	−21	−1,629	−79	−79	−80	−155	−156
Spending subject to appropriations action:								
Estimated authorization level	0	6	0	105	0	0	0	0

TABLE 1.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON NATIONAL SECURITY—Continued

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Estimated outlays	0	5	1	105	0	0	0	0

Note.—Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

The direct spending in this bill falls under budget functions 270 and 600; receipts from asset sales fall under budget functions 050 and 270.

The spending subject to appropriations action falls under budget function 270.

Naval Petroleum Reserves.—Subtitle B would require that the Department of Energy [DOE] sell all of the naval petroleum reserves [NPR] under certain conditions and procedures and would authorize various methods for settling certain claims related to Reserve 1 (Elk Hills).

Under the provisions in this bill, the sale of the reserves would have three types of budgetary impacts over the 1996–2002 period (see table 3). First, we estimate that selling all of the reserves would yield about $1.55 billion in nonroutine asset sale receipts, of which about $1.5 billion would be collected from the sale of Elk Hills and the remainder from the sale of reserves in Colorado, Wyoming, and Utah. We expect that the proceeds would be collected in fiscal year 1997, despite directives in the bill to complete the sales by the end of fiscal year 1996. CBO assumes that DOE is likely to need at least 1 year to complete the sale of Elk Hills in order to resolve various legal and technical issues and allow for competitive bidding, evaluation, and negotiation. Because of uncertainties regarding the other reserves, including the potential need for environmental assessments, we assume that such sales also would require 12 months or more to complete. Under this bill, the costs associated with administering the sales, which are estimated to total $6 million, would be deducted from the proceeds. We assume, however, that DOE would need to use appropriated funds in 1996 to pay for the services and activities specified in the bill. Hence, the table shows an estimated authorization for those administrative costs in 1996 and outlays in 1996 and 1997.

TABLE 2.—DIRECT SPENDING FROM PROPOSALS AFFECTING MILITARY RETIREMENT

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Spending under current law:								
Estimated budget authority	28,376	29,138	30,370	31,745	33,882	35,345	36,858	38,435
Estimated outlays	28,350	29,039	30,261	31,630	33,762	35,219	36,727	38,298
Proposed changes:								
Estimated budget authority	0	403	686	716	0	0	0	0
Estimated outlays	0	403	686	716	0	0	0	0
Spending under proposals:								
Estimated budget authority	28,376	29,541	31,056	32,461	33,882	35,345	36,858	38,435
Estimated outlays	28,350	29,442	30,947	32,346	33,762	35,219	36,727	38,298

Second, once the sales are completed, the Government would forgo the offsetting receipts that would otherwise have been collected from production and sale of oil, gas, and related products from the reserves. These receipts, which are included in budget function 270, are projected to total over $400 million annually

under current law over most of the 1997–2002 period. Assuming that the sale would be completed during the first quarter of fiscal year 1997, we estimate that the loss of receipts from the sale of NPR would begin by the second quarter of the fiscal year. The loss would reach $470 million in 1998 and decline gradually to $379 million in 2002.

TABLE 3.—BUDGETARY IMPACT OF SELLING THE NAVAL PETROLEUM RESERVES
[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999	2000	2001	2002
RECEIPTS FROM ASSET SALE								
Proceeds from the sale:								
Estimated budget authority	0	0	−1,550	0	0	0	0	0
Estimated outlays	0	0	−1,550	0	0	0	0	0
DIRECT SPENDING								
Receipts under current law:								
Estimated budget authority	−433	−450	−477	−470	−445	−424	−401	−379
Estimated outlays	−433	−450	−477	−470	−445	−424	−401	−379
Proposed changes:								
Estimated budget authority	0	0	351	470	445	424	401	379
Estimated outlays	0	0	351	470	445	424	401	379
Receipts under proposal:								
Estimated budget authority	−433	−450	−126	0	0	0	0	0
Estimated outlays	−433	−450	−126	0	0	0	0	0
SPENDING SUBJECT TO APPROPRIATIONS ACTION								
Conduct of the sale:								
Authorization level	0	6	0	0	0	0	0	0
Estimated outlays	0	5	1	0	0	0	0	0
Payment of possible claims: [1]								
Estimated authorization level	0	0	.....	105	0	0	0	0
Estimated outlays	0	0	0	105	0	0	0	0

[1] This authorization is contingent upon administrative and congressional actions that cannot be predicted by CBO. However, it is unlikely that any appropriation or grant would occur before fiscal year 1998.

Note.—Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

Third, the bill would authorize alternative methods of settling certain claims made by the State of California related to Elk Hills, including appropriations, a grant of nonrevenue producing lands, or any other arrangement consistent with the Congressional Budget Act. The value of such payments would be capped at 7 percent of the net proceeds from the sale of Elk Hills. With total proceeds from that sale project at $1.5 billion, we estimate that this provision would authorize a payment or land grant valued at up to $105 million. Although we cannot predict what form such a settlement would take, we assume that any appropriation resulting from court rulings would be unlikley to occur before 1998.

National Defense Stockpile Sales.—Subtitle C would require that the Department of Defense [DOD] sell certain materials in the national defense stockpile to achieve specified targets for cumulative receipts. Enough material would have to be sold to realize cumulative receipts of $21 million by September 30, 1996; $338 million by September 30, 2000; and $649 million by September 30, 2002. The bill would prohibit sales after its receipt targets had been met.

The receipts would come from selling aluminum, cobalt, ferrocolumbium, germanium, palladium, platinum, and rubber. The

bill specifies the maximum quantity of each material that could be sold. Current law does not permit DOD to sell any of these materials except cobalt. The proposal would require DOD to sell all of the cobalt currently authorized for sale before selling additional materials to achieve the targets for receipts.

To determine if the receipt targets could be achieved, CBO reviewed both past sales and historical trends in prices for the different materials. Using both historical average prices and quantities that would probably not cause any significant disruption in world markets, CBO found the receipt levels to be achievable. If DOD were unconstrained by the receipt targets and began selling all that the bill would allow, CBO estimates that receipts could total about $800 million for the 7-year period 1996–2002.

TABLE 4.—RECEIPTS FROM NATIONAL DEFENSE STOCKPILE ASSET SALES

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Receipts under current laws:								
Estimated budget authority	−212	−202	−185	−185	−185	−185	−185	−185
Estimated outlays	−212	−202	−185	−185	−185	−185	−185	−185
Proposed changes:								
Estimated budget authority	0	−21	−79	−79	−79	−80	−155	−156
Estimated outlays	0	−21	−79	−79	−79	−80	−155	−156
Receipts under proposal:								
Estimated budget authority	−212	−223	−264	−264	−264	−265	−340	−341
Estimated outlays	−212	−223	−264	−264	−264	−265	−340	−341

Note.—Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

7. Estimated cost to State and local governments: Subtitle B would authorize alternative methods for settling certain claims by the State of California related to the Elk Hills reserve, including appropriations, land grants, or other arrangements. Our estimate suggests that the bill would authorize a settlement valued at up to $105 million, but that any appropriation or grant would be unlikely to occur before 1998.

8. Estimate comparison: None.

9. Previous CBO estimate: On August 15, 1995, CBO prepared a cost estimate for the reconciliation recommendations of the House Committee on National Security, as ordered reported on August 1, 1995. Like the current bill, the previous version would advance the military retirement COLA dates and would sell the Naval Petroleum Reserves. This estimate and the earlier one are identical for these two provisions. The earlier recommendations would achieve cumulative savings of $644 million by 2002 by changing the formula for computing retirement annuities. This bill would achieve cumulative savings of $649 million over the same period by selling materials in the national defense stockpile.

On September 26, 1995, CBO prepared a cost estimate for the reconciliation recommendations of the Senate Committee on Armed Services, as ordered reported on September 18, 1995. Both bills would authorize the sale of the naval petroleum reserves, and the CBO estimates of this provision are identical. The bills would sell different materials from the national defense stockpile, but both would require sales totaling $649 million over the 1996–2002 pe-

riod. Also, the Senate committee's version does not include language to advance the military retirement COLA dates, but the committee included such language in another bill, S. 1026.

10. Estimate prepared by: Elizabeth Chambers prepared the estimates for changes to military retirement and sales from the national defense stockpile. The estimates for the sale of the naval petroleum reserves were prepared by Kathy Gramp.

11. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE OVERSIGHT FINDINGS

With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, this legislation results from hearings and other oversight activities conducted by the committee pursuant to clause 2(b)(1) of rule X.

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, this legislation does not include any new budget, spending, or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Reform and Oversight pertaining to budget reconciliation.

TITLE IX—COMMITTEE ON RESOURCES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 29, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: In accordance with your September 19, 1995, letter to me, I am transmitting with this letter the reconciliation provisions adopted by the Committee on Resources on September 19, 1995. As requested, I have included materials outlining the purpose background on the provisions, the history of any committee action, a section-by-section analysis, committee oversight findings, a Ramseyer, and tally sheets for all rollcall votes in committee. All but the last two items are also contained on the enclosed computer disk. I am also enclosing some dissenting and additional views filed by minority members of the committee.

I have not yet received a letter from the Congressional Budget Office estimating the cost savings and revenue generated by our provisions, but based on informal estimates, the Committee on Resources has clearly met our budget targets. I will forward this letter to you as soon as I receive it.

I am proud of the Committee on Resources' contribution to balancing our Federal budget and reducing the Federal deficit. I look forward to the consideration of these measures by the House of Representatives and wish you every success with the reconciliation bill.

Sincerely,

DON YOUNG,
Chairman.

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INTRODUCTION

The committee print adopted by the Committee on Resources on September 19, 1995, which will comprise title IX in the larger reconciliation measure assembled by the Committee on Budget, gen-

erates revenues or increases savings to the Federal Government of $100 million in fiscal year 1996 and $2.3 billion by fiscal year 2002. The committee print reflects dual goals in meeting a balanced budget. First, the print is about achieving less Federal Government involvement in peoples' lives through the termination of Federal programs that can be appropriately done by non-Federal entities. In this category are the sales of two power marketing administrations, the sale of Federal helium stockpiles, the termination of a special grant to the Northern Mariana Islands, and direction to the Department of the Interior to contract out for mapping and charting activities. Second, the print is about reform, including improvements in existing Federal mining laws, concession policies, livestock grazing, and the oil and gas leasing process.

As follows are background and need explanations for the provisions of the committee print, a summary of committee action on the print (including any earlier action on underlying legislation), and a section-by-section analysis of the print. Also included are dissenting and additional views filed by minority members of the committee.

BACKGROUND AND NEED FOR LEGISLATION

SUBTITLE A—ALASKA AND HELIUM PRIVATIZATION

Part 1—Alaska

Sec. 9001. Exports of Alaska North Slope Oil

In 1973, contemporaneously with the Arab-Israeli war and the first oil embargo, Congress adopted the Trans-Alaska Pipeline Authorization Act, which authorized construction of a pipeline to move the oil from Alaska's North Slope to an accessible port at Valdez, AK. The legislation also established export restrictions on all domestically produced crude oil carried over a Federal right-of-way by adding a new section 28(u) to the Mineral Leasing Act [MLA]. As amended, the MLA permitted exports of domestically produced crude oil—including Alaskan North Slope [ANS] crude oil—only if the President determined the exports would be in the national interest, it would not diminish the total quality or quantity of petroleum available to the United States, and it would be done in accordance with licensing provisions of the Export Administration Act of 1969.

In 1979, following the second major oil shock, Congress effectively banned exports of ANS crude oil. Today, ANS crude oil is the only domestically produced crude oil subject to an export ban. As a result, Alaska—the largest oil producing State in the Nation—is the only State subject to an export ban.

The world oil situation has changed fundamentally since the 1970's when the United States faced continuing supply threats. In 1973, for example, Middle East countries boycotted the United States at the outbreak of the war. Thereafter, OPEC was able to ratchet up prices repeatedly, as demand for oil seemed essentially inelastic and energy demand appeared to be growing geometrically. The enormously flexible U.S. economy, however, reacted to the anticipated shortage through rapid gains in energy efficiency. Net imports of oil actually declined between 1978 and 1993. Not until last

year did imports surpass the previous all-time high, principally as a result of falling domestic oil production.

At the same time that demand pressure moderated, world crude oil supplies greatly expanded and diversified. The United States established a Strategic Petroleum Reserve, which today contains nearly 600 million barrels of crude. Moreover, a pronounced shift toward more reliable sources of supply occurred. The United States, for example, no longer imports any crude oil from Iran, Iraq, or Libya. Today, Canada and Mexico are among our largest suppliers. In short, the United States no longer faces the supply threats that it faced in the 1970's.

Today, approximately 1.6 million barrels of crude oil are carried daily through the Trans-Alaska Pipeline System. The majority of the oil is carried by tanker to the west coast and Hawaii. With the ban in place, the surplus must be delivered to the Gulf Coast, the Midwest, and the Virgin Islands. The added cost of moving the oil this considerable distance reduces the netback to producers in Alaska. The export ban also creates a glut on the west coast market, depressing the price of ANS crude and heavy oil produced in California. Although not intended, the export restrictions have actually reduced domestic production by discouraging production in Alaska and California.

North slope production has now entered a period of sustained decline. As a result, many of the tankers built at considerable expense to carry the oil to market are laid up or headed for the scrap heap. With increased production in Alaska and California, these militarily useful tankers would have new employment opportunities, as would the skilled mariners who man the vessels. Moreover, shipbuilding and ship repair yards on the west coast would have new business opportunities.

In an effort to ascertain whether authorizing ANS exports would be in the national interest and to quantify the benefits (as well as possible costs) of lifting the ban, the Department of Energy conducted, in June 1994, a comprehensive study and issued a report. In "Exporting Alaskan North Slope Crude Oil—Benefits and Costs," the Department concluded that "there would be a significant number of benefits from allowing the export of ANS crude." By the end of the decade, those benefits would include: Increasing domestic oil production by up to 110,000 barrels per day, creating up to 25,000 oil industry related jobs, preserving as many as 3,300 direct and indirect maritime jobs, and raising approximately $2 billion in Federal and State revenues. The Department concluded that "[l]ittle, if any, increase in consumer petroleum prices would be likely" and stated that "[n]o significantly negative environmental implications were found." The Department specifically found that "[l]ifting the ban will reduce overall tanker movements in U.S. waters." The Department, however, did find that independent refiners on the west coast were expected to incur slightly higher crude oil acquisition costs as the west coast surplus eased.

The committee concurs with the Department's findings with respect to west coast refiners. These refiners often purchase ANS crude on the spot market, below world market prices, at as much as a $3 per barrel discount but do not pass the savings on to con-

sumers. The committee, therefore, feels that west coast refiners should incur higher crude oil acquisition costs.

In the view of the committee, the ban no longer makes sense. By authorizing exports, Congress could spur domestic energy production, create or preserve jobs, help maintain an independent tanker fleet essential to national defense, raise State and Federal revenues, and reduce our Nation's net dependence on imports. The committee believes exports of ANS crude are in the national interest. The committee therefore urges the President to make the required findings and his national interest determination as quickly as possible following enactment of the legislation.

Sec. 9002. Arctic Coastal Plain leasing and revenue

Section 9002 contains the recommendations of the committee with respect to reducing the Federal deficit by allowing competitive bonus bids for oil and gas leases in the coastal plain area of the Arctic National Wildlife Refuge [ANWR] in Alaska.

The committee recognizes that opening the small coastal plain area of ANWR's 19 million acres is and has been controversial since the late 1970's. The coastal plain was an issue in the years of debate that preceded enactment of the Alaska National Interest Lands Conservation Act of 1980 [ANILCA]. Senator Henry M. Jackson (D–WA) and many other Members of both parties in the House and Senate strongly believed that the 1.5 million acre coastal plain area constituted the Nation's best prospect for one or more Middle East or Prudhoe Bay class oil discoveries. They believed that this area, adjacent to Prudhoe Bay, should be leased for oil and gas exploration and development under sound and responsible environmental regulations. Other Members of Congress, including Representative Morris K. Udall, wanted the coastal plain's 1.5 million acres included in what subsequently became an 8 million acre wilderness designation in ANILCA. This designation doubled the Arctic National Wildlife Refuge to 19 million acres—an area the size of the State of South Carolina.

None of these advocates achieved complete victory. The adoption of ANILCA in 1980 was based upon a coastal plain compromise. This compromise agreement required a 5-year study by the Department of the Interior of the energy and wilderness values of the coastal plain area. This 5-year Federal study was finally completed and released in April 1987. The study was both a comprehensive resource assessment and a final legislative environmental impact statement. The conclusions of the report and the subsequent recommendations of the Secretary of the Interior were very clear. The more than 6 years of intensive study led the Secretary to conclude that: First, Oil and gas resources of the coastal plain can be fully developed without harm to coastal plain wildlife, the environment or subsistence uses by native people; and second, oil and gas leasing and development on the coastal plain would best serve the interests of the Nation by providing jobs (estimated by various sources at anywhere from 250,000 to 735,000), stimulating the economy, reducing oil import dependence, improving the Nation's balance of payments, enhancing national security, generating substantial new Federal revenues from bonus bids and taxes, and providing domestic energy companies an alternative to investing in

foreign prospects (which export both jobs and scarce investment capital).

The committee recognizes that, to date, the Clinton administration has opposed legislation to open the 1.5 million acre coastal plain. This position was reiterated when the Solicitor of the Department of the Interior, Mr. John Leshy, testified before the Resources Committee on August 1, 1995. Also, in recent months the administration has directed the U.S. Geological Survey and other resource agencies of the Department of the Interior to revisit the subject of opening the coastal plain. This has included requests or directives to undertake a reexamination of the 1987 Report, as well as the more than 6 years of careful study and review by agencies of the Department of the Interior that lead up to that report. This action by the Clinton administration has led to the preparation of recent papers and assessments by the Department which seek to raise new issues or questions which might undercut some aspects of the 1987 report which support oil and gas leasing.

The committee respects the right of the Clinton administration to recommend policy positions on the coastal plain and other matters. The committee, however, has an obligation to independently weigh the facts, to evaluate the evidence, and to address the needs of the Nation, as well as to respond to the fiscal crisis and the growing budget and trade deficits facing the country. The committee has done so in this legislation. Section 9002 incorporates the clear evidence from the hearing record, the weight of scientific opinion, and the economic needs of the country. This subsection also reflects a new and growing majority view in this nation that we must address the facts about our energy resource base, our need for petroleum, and our fiscal deficit.

In short, section 9002 represents the committee's best judgment on how to eliminate the budget deficit; how to create hundreds of thousands of new jobs in all 50 States; how to bring domestic oil company investments home; how to reduce the trade deficit; how to expand and utilize the best and cleanest technology in the world for Arctic oil development; how to raise a minimum of $1.3 billion in new Federal revenues: and how to develop the new natural gas resources that our nation will need in the future.

The committee is confident that the public will respect our analysis and our conclusions, based on the facts, on this important matter. The committee is prepared to continue to work with the administration in adjusting to the new budget reality and all it entails. It is essential to find new sources of revenue that will provide options for down-sizing and narrowing the focus of government. New revenues can provide the means for new programs which can achieve shared objectives. Unfortunately, critics of Coastal Plain development have yet to suggest any credible alternative source of new revenues if the Coastal Plain were to remain closed to leasing.

Sec. 9003. Alaska Power Administration sale

The Federal Government markets power from its 129 hydroelectric projects throughout the United States through five Power Marketing Administrations [PMA's]. These multi-purpose projects, constructed and owned by the Department of the Interior's Bureau of Reclamation and the U.S. Army Corps of Engineers for flood con-

trol, navigation, irrigation and more recently, for recreational purposes, generate 45 percent of the nation's hydroelectric power as a by-product, which is sold by the PMA's to local public, private and cooperative utilities at cost. Supplemental power from these projects is provided to all but 16 States.

Unique among the PMA's, the Alaska Power Administration [APA] owns, operates and maintains two hydroelectric projects, Eklutna and Snettisham. Not only are these two projects confined to local Alaska markets, but, unlike the other PMA's, the APA's single-purpose projects are not the result of a water resource management plan nor are they intended to remain indefinitely under Federal control. Instead, they were created to encourage and promote economic development and to foster the establishment of essential industries in Alaska by providing and encouraging the most widespread use of hydroelectric power at the lowest possible rates. It was for these purposes, rather than flood control, navigation, irrigation or recreation, that the 30 megawatt [MW] Eklutna project was built in 1955 to serve the Anchorage and Matanuska Valley areas, and the 78MW Snettisham project was constructed to serve Juneau in 1975.

To date, the two projects have served their original purposes well. Findings indicate that not only have they provided widespread, relatively low-cost, long-term supplies of renewable energy to the areas served and recovered the Federal costs as intended in the authorizing legislation, but also economic and industrial development has occurred to the point where their role in the State as major providers of electric power has greatly diminished. Together, these projects provide only about 8 percent of the total energy requirements of Alaska's electric utilities.

The time for the Federal Government's divestiture of these projects is ripe, since the goals as originally intended have been met. It is no longer necessary for the Federal Government to operate a small, separate power program in Alaska because: (1) the projects fill a small market niche; (2) economic and industrial development of the regions served has evolved as planned; (3) other providers have emerged that can provide and serve the region's needs; and, (4) the State and local electric utilities are poised to manage the projects in a manner consistent with Alaska's future energy and development needs.

Although informal discussions of divestiture date back many years, it was not until 1986 that the formal proposal first appeared. Subsequent to this, a public comment process resulted in invitations of proposals to purchase the projects being extended in the spring of 1987 to electric utilities served by the APA projects. In response to solicitation requests, the State of Alaska proposed to purchase the Snettisham project, while three utilities, the city of Anchorage, the Matanuska Electric Association and the Chugach Electric Association, submitted a joint proposal to purchase Eklutna. Finding both perspective purchasers well qualified to own, operate and maintain the projects, the APA moved forward to draft purchase agreements.

The APA and the proposing parties negotiated purchase agreements which set forth the terms, conditions and responsibilities of each party for the orderly sale and transfer of the projects. The

final agreements, signed in 1989, have been amended twice to extend the purchase deadline. They reflect great care and deliberation to incorporate and address, to the extent possible, all views and concerns of interested parties to ensure a balance between Federal taxpayers, Federal agencies affected, State and local utilities, and retail customers. As a result, the divestiture proposal has widespread support.

This section and separate formal agreements provide for the full protection of fish and wildlife. The purchasers, the State of Alaska, the U.S. Department of Commerce, National Marine Fisheries Service and the U.S. Department of Interior have entered into a formal agreement providing for post-sale protection, mitigation and enhancement of fish and wildlife resources affected by Eklutna and Snettisham. This section makes that agreement legally enforceable.

The Federal Government will be relieved of the responsibility of owning and operating two small, isolated hydroelectric projects in Alaska and any liabilities for future maintenance, equipment replacement, and claims. Equally important, proceeds from the sale will recover nearly 95 percent of the present value of the original Federal investment in the APA projects and prescribed interest (estimated between $73.5 and 80.3 million, depending on certain conditions when the sale is approved), and foregone annual revenues of approximately $10 million will be nearly off-set by the avoidance of annual expenditures averaging $4 million for management and operations, and $6 million in principal and interest on the outstanding debt on these two projects:

The APA has 34 employees located in Alaska. The purchasers of the two projects have pledged to hire as many of these people as possible. For those who do not receive offers of employment, the Department of Energy [DOE] has pledged that it will offer employment to any remaining APA employees, although DOE jobs are expected to be in the lower-48 States.

In designing a "break even" or "cost recovery" sale of these two projects, the Federal Government meets two goals: first, it optimizes on the taxpayers' interests by recovering nearly all of the original investment; and second, it addresses the consumers' concerns that hydroelectric power continue to be provided without a significant increase in rates.

Part 2—Helium Privatization

Secs. 9011–9018. The Helium Privatization Act

Helium has unique properties that make it useful for science and industry. It is used in cancer research, to cool nuclear reactors, and by the National Aeronautics and Space Administration [NASA] for its shuttle launches. In 1925, the Federal helium program was officially placed under the control of the Bureau of Mines [BOM] when Congress enacted the Helium Act of 1925. In 1929, BOM's large scale helium extraction and purification facility was built and began operating near Amarillo, TX. Concerns that natural gas supplies were tapering off prompted Congress to replace the 1925 Act with the Helium Act Amendments of 1960. The 1960 Act was intended to conserve helium for essential Federal Government services and to supply current and foreseeable needs of the Federal

Government. The law authorized the purchase of helium from private suppliers and its storage for later use by the Federal Government. Also, the law authorized the maintenance of helium production and purification plants and related helium transmission and shipping facilities.

Beginning in 1960, the Federal Government contracted with private companies to supply helium to the BOM facility. To finance purchases BOM borrowed $252 million from the Treasury, intending that future sales would repay the loan. But Federal demand failed to meet projections, and in 1973, contracts for additional helium were canceled. Regardless, BOM has amassed an estimated 31.4 billion cubic feet helium stockpile and a debt, which today is estimated at $1.4 billion (including interest). The repayment of this debt is a central issue in determining when the stockpile should be sold.

The Federal helium program serves the needs of "major" Federal users of helium, such as NASA (where helium is used in leak detection and purging of rocket fuel tanks) and the Department of Energy laboratories (where it is used in liquid form as a supercoolant). Under current law these Federal agencies and their contractors must purchase helium from BOM's Cliffside facility. Sales to private users are allowed but have declined to only a few percent of total sales since BOM raised its prices administratively in 1991.

The helium program has been attacked as unnecessary and as a drain on the Treasury by watchdog groups such as the National Taxpayers Union, the 20/20 television program, NBC Nightly News, the Inspector General of the Department of the Interior and the Heritage Foundation. While the helium program was created at a time when there was no private helium production, today the private sector produces 90 percent of the world's helium. Private industry's production ability is a primary reason the above cited groups have called for eliminating the Federal program.

Subtitle A, Part 2 address the three central objectives sought by those who have called for abolition of the program: getting the Federal Government out of the helium business; repaying the Federal debt by selling the facility and stockpile; and avoiding disruption of the private helium industry.

SUBTITLE B—WATER AND POWER

Part 1—Power Marketing Administrations

Secs. 9201–9204. The Power Administration Act

There are five Federal Power Marketing Administrations [PMA's]: Alaska Power Administration [APA], Southeastern Power Administration [SEPA], Southwestern Power Administration [SWPA], Western Area Power Administration [WAPA], and Bonneville Power Administration [BPA].

The APA is sold and transferred under section 9002 of the committee print.

The PMA's are agencies within the Department of Energy with the primary mission to market the electrical power generated at Federal dams. The power is typically sold to publicly or cooperatively-owned utilities (frequently called preference customers). The

PMA's sell about 6 percent of the nation's total electricity generation to these preference customers. Government-owned utilities serve approximately 14 percent of all electric consumers, while rural electric cooperatives serve about 11 percent of electric consumers.

The PMA's are facing a number of operational challenges, including: a drain on revenues for other public purposes, particularly Endangered Species Act compliance; increased competition in the wholesale power market as a result of the National Energy Policy Act of 1992; deferred maintenance on powerplants by the operating agencies; and reoperation of dams for environmental purposes.

In recent years, the PMA's have attracted the interest of those concerned with balancing the Federal budget, because the possible sale of the PMA's would: First, end Federal funding for the construction, operation and maintenance of the PMA system; second, result in an infusion of proceeds that could be used to reduce the Federal deficit; third, increase the efficiencies of operation on the systems; and fourth, reverse the growing backlog of deferred maintenance at the projects. Given the Nation's continuing budget crisis, the committee believes that SEPA should be privatized and that DOE should also begin evaluating the possible sale of the SWPA- and WAPA-related assets.

On May 3, 1995, the administration transmitted to Congress its legislative proposal to sell SEPA, SWPA and WAPA. The proposal would authorize the Secretary of Energy to study and prepare plans to sell the three agencies. Following Presidential approval of the sale plan, the Secretary would transmit the plan to Congress to take effect in 60 days. The administration's proposal would give a preferential right of purchase to the existing firm power customers. The legislation was never introduced.

The transfer of the PMA's will affect a mature private/public competitive electric supply and distribution system in the U.S. That system has grown up over the past 50 years, with about 80 percent of the electricity generated by investor owned utilities [IOU's] and about 20 percent by the public sector power systems. In rural areas of America, about 60 percent of the electric needs are met by IOU's, with the remainder served by the rural cooperatives and other public power systems.

In the early 1900's, when privately owned utilities served primarily the large urban markets, Congress authorized and appropriated funds that would allow municipalities and rural cooperatives to build electric utility systems to meet their needs. Now, approximately 99 percent of America has electrical service.

The Federal Energy Regulatory Commission [FERC] regulates the wholesale power rates of the IOUs and the availability of access to the transmission systems. As FERC continues to make the electric utility business more competitive, it is taking steps to let public and private providers compete directly for each other's customers.

Southeastern Power Administration

SEPA markets power generated at Federal hydroelectric generating plants in 10 Southeastern States—Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mis-

sissippi, Tennessee, and Kentucky. Power is sold to customers in 11 States—those listed above plus Illinois. There are presently 23 SEPA-related projects in operation. SEPA purchases, transmits, and markets power from these projects within four separate SEPA power systems: Georgia, Alabama, South Carolina, Jim Woodruff, Cumberland and Kerr-Philpott. SEPA sells this power at wholesale primarily to publicly and cooperatively-owned electric distribution utilities using wheeling and pooling agreements with the region's large private utilities to provide power to its customers. SEPA does not own or operate any electric transmission facilities.

SEPA's operations have been affected in recent years by problems associated with deferred maintenance on powerplants, resulting in supply problems at times. One of the driving forces requiring this legislation is that the Federal Government has invested millions of dollars in these Federal assets but is no longer adequately maintaining them.

Southwestern Power Administration

SWPA's primary mission is to market surplus federally-generated hydroelectric power in a six-State region. SWPA operates and maintains 1,380 miles of high-voltage transmission line and 24 substations in that region. Its headquarters is located in Tulsa, OK; the dispatch center is in Springfield, MO; and maintenance centers are based in Jonesboro, AR; Gore and Tupelo, OK; and Springfield, MO.

Western Area Power Administration

WAPA was formed when the Department of Energy was created in 1977, and it took over power marketing functions from the Department of the Interior. WAPA markets power throughout a 1.3 million-square-mile geographic area in 15 Central and Western States to 637 wholesale customers. In fiscal year 1996, WAPA will operate and maintain 16,734 miles of high-voltage transmission line, 259 substations, and other associated power facilities. WAPA markets power generated at 55 powerplants, and also purchases power to firm up the Federal hydropower supplies.

WAPA is facing several issues, including: the reoperation of the Glen Canyon Dam, which reduces its usefulness as a peaking power facility; rewinds at the powerplant at Shasta Dam in Northern California; significant cost overruns of the Hoover Dam Visitors' Facility, which becomes part of the rate base for certain customers; and a return of drought conditions in 1994 that affected the amount of water available for generation of electricity. WAPA is also facing issues relating to Endangered Species Act—listed species in the Sacramento River and the Upper Colorado River basins.

Sec. 9205. Bonneville Power Administration appropriations refinancing

The Bonneville Power Administration [BPA] was created by the 1937 Bonneville Project Act to market power from Federal projects in the Pacific Northwest. BPA currently markets power from 30 Federal hydroelectric projects, most of which are located in the Columbia River basin. BPA also markets electricity from several non-

Federal projects, including the Washington Public Power Supply System, Project No. 2 (a nuclear powerplant).

On the transmission side of its business, BPA owns and operates approximately 18,000 miles of high voltage transmission line and 388 substations comprising approximately 80 percent of the bulk transmission capacity of the Pacific Northwest. BPA sells and exchanges power under contracts with over 140 utilities in the Pacific Northwest and the Pacific Southwest and with seven large industrial customers. BPA estimates that its service area of nearly 300,000 square miles has a population of approximately nine million people.

Since 1974, BPA's operations have been financed through a revolving fund—power revenues are deposited into this fund and are then available for BPA to spend. BPA also uses permanently authorized borrowing authority, now totaling $3.75 billion, to finance capital investments. Under provisions of the Energy Policy Act of 1992, BPA has the authority to fund directly certain powerplant upgrades and rewinds at Federal hydropower facilities.

For years, several administrations have threatened to change fundamentally the terms upon which BPA satisfies its obligation to return the taxpayers' investment in the Federal Columbia River Power System [FCRPS]. These proposals had varying approaches, but in general would have increased substantially the returns to the Treasury. Faced with these annual proposals, BPA's customers are concerned that steeply increased returns to the Treasury may be forced on them. The purpose of this section is to assure power purchasers that BPA will not be forced to raise its rates to noncompetitive levels to satisfy possible future changes in law or practice relating to the requirements under which BPA presently repays the Federal capital investment in the FCRPS funded by appropriations. In exchange for providing enhanced certainty in the terms of BPA's repayment responsibilities, the U.S. Treasury will realize additional returns from BPA's ratepayers because section 9205 increases BPA's payments in respect of the investments by a net present value of $100 million.

The essential terms of the transaction authorized by section 9205 are:

> BPA refinances with the U.S. Treasury its unpaid appropriated debt, raising the interest rates and thereby eliminating the low interest rates which have fueled previous debates about whether repayment reform should be implemented.
>
> BPA pays over time $100 million at today's value as the cost of refinancing.
>
> In return, BPA customers get a contractual guarantee that further increases in repayment of the refinanced debt will not be implemented.

The net impact of this section is to cause an approximate $15 million increase in BPA debt service requirements in the first several years. This increases to $25 million after 5 years and then declines at a generally steady rate over the next 15 years until the increase in cost disappears. According to BPA, the need to raise an additional $25 million in revenues creates a BPA rate impact of slightly more than 1 percent.

It should also be noted that this section provides for credits against amounts otherwise payable by the BPA Administrator to the U.S. Treasury for a portion of the funds the Administrator is obligated to pay the tribes under the Colville Settlement Agreement, enacted last year as Public Law 103–436. These credits are designed to provide near-term rate stability for the ratepayers.

Part 2—Reclamation

Sec. 9211. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District

This section requires the Secretary of the Interior to accept prepayment from the Central Utah Water Conservancy District [District] for debt associated with a contract governing repayment of municipal and industrial water delivery facilities of the Central Utah Project. These facilities, when completed, will provide municipal and industrial water to parts of the State of Utah. The largest facility expected to be prepaid is the Jordanelle Dam, upon which construction activity has been completed. The Jordanelle Reservoir is presently filling with water pursuant to a filling criteria schedule for new dams developed by the Bureau of Reclamation, an agency of the Department of the Interior. The committee expects that in 1996, Jordanelle Reservoir will be filled with sufficient water to initiate repayment by the District. Once the District's repayment obligation is triggered, the District is expected to exercise its option to prepay its repayment debt. In addition, construction funding for the Diamond Fork pipeline is expected to be provided in the fiscal year 1996 Energy and Water Development Appropriations bill, which will initiate construction of this facility. The committee is confident that this facility will be completed and prepaid under this section within 7 years from the date of enactment of this section.

Based upon information from the financial advisors of the District, the committee expects that prepayments by the District to the U.S. Treasury pursuant to this section will occur as follows: $20 million to $25 million in fiscal year 1996; $100 million to $125 million in fiscal year 1998; and $25 million to $50 million in fiscal year 2001.

Sec. 9212. Treatment of city of Folsom as a Central Valley project contractor

This section is designed to facilitate efforts by the city of Folsom, California, to contract with the Placer County Water Agency under the terms of the Central Valley Project Improvement Act (CVPIA, title XXXIV of Public Law 102–575) to obtain a portion of the Water Agency's unused CVP water allocation. The city does not have such a contract at this time.

Section 206 of Public Law 101–514 authorized the Secretary of the Interior to enter into a contract with the Sacramento Water Agency for municipal and industrial water supply, 7,000 acre-feet of which has been allocated to the city of Folsom. However, those contract negotiations are still underway, and are not expected to be completed for another 2 to 3 years. Once completed, the city of Folsom will still have an inadequate water supply.

Therefore, the city is seeking to enter into a water transfer agreement to help meet its needs. Provisions of CVPIA expedite transfers between "Central Valley Project contractors" within counties, watersheds or other areas of origin. Since the city is authorized to received water under Public Law 101–514, which was approved on November 11, 1990, the city is seeking to be considered a CVP contractor as of that date. This will facilitate entering into a water transfer with Placer County Water Agency.

Sec. 9213. Sly Park

The Sly Park Unit of the Central Valley Project [CVP] is located on Sly Park Creek upstream of Sacramento, CA. Constructed during the 1950's, the project facilities consist of the Sly Park Dam and Reservoir, the Camp Creek Diversion Dam and Tunnel, and various other water distribution features. The Sly Park facilities furnish municipal and industrial water to Placerville and other towns, and irrigation water to the El Dorado Irrigation District. The Unit has been operated by the El Dorado Irrigation District since construction was completed in 1956.

The Sly Park Unit is financially integrated with the CVP, but is hydrologically independent. The Irrigation District is interested in acquiring title to the dam and main supply works to exercise greater control over its water supplies.

Sec. 9214. Hetch Hetchy Dam

Section 9214 would increase from $30,000 to $8 million the annual payment made by the city of San Francisco under the provisions of the Raker Act (Act of December 13, 1913) for having the Hetch Hetchy system within Yosemite National Park.

The section further stipulates that these receipts shall be placed in a separate fund by the United States. The fund would be subject to further appropriations, but the highest priority for use of the funds is for the annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in California.

The current $30,000 payment was set in statute in 1913, and has not been changed or indexed for inflation since then. An effort was made to increase the fee to $20 million annually during the 1993 reconciliation debate, but it was defeated. There was a recognition at the time, however, that the fee was too low and that this issue needed to be addressed.

While the committee does not have the most current revenues and expenditures by the city of San Francisco with respect to the Hetch Hetchy system, a February 1988 report by the Bureau of Reclamation indicated that the net book value of the Hetch Hetchy system as of June 30, 1987, was about $272.8 million, and the remaining balance to be repaid on the facilities totaled $3.4 million. During the 6-year period between fiscal years 1982–1987, average annual water and power revenues totaled $87.7 million, with average annual operational expenses of $49.1 million. During this period, the average annual net revenues generated totaled $38.7 million.

SUBTITLE C—NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

Part 1—Concession Reform

Secs. 9301–9318. Visitor Facilities and Services Enhancement Act of 1995

Concession operations on Federal lands are big business. In 1993, the General Accounting Office reported that more than 9,000 concessioners had gross revenues of over $2 billion. These concessions range from huge operations at Yosemite National Park which offer food and lodging, and ski areas at Vail and Aspen, to small outfitter and guide services who only take a few hunting trips a year. Concessions are currently managed by each Federal agency under widely varying laws and rules.

Concession management on Federal lands, in particular National Park Service [NPS] lands, has received considerable attention over the years. The law governing concession management on NPS lands has been under attack for over 20 years. The two primary features of that law which have been constantly criticized are the lack of any viable competition and the manner in which capital improvements are treated. Current law provides for existing concessioners to have a preferential right of renewal in all contracts, which means they are afforded the opportunity to meet any other offers. The law also provides for concessioners to obtain a possessory interest in any improvements they construct.

There has also been criticism about the rate of return to the Federal Government for concession activities. The rate of return for NPS contracts, 2.4 percent of gross revenues, is similar to the rate of return for concessions on a government-wide basis. However, the rate of return is more an artifact of the inability of the government to negotiate a good deal than it has been a result of the law.

The purpose of these sections is to reform the manner in which concessions are managed by six Federal land management agencies to improve service to the public. Concessioners would be selected through an open and competitive process which would ensure a fair return to the Federal Government.

Part 2—National Forest Ski Areas

Secs. 9321–9322. Privatization of Forest Service ski areas; ski area permit fees and withdrawal of ski areas from operation of mining laws

Currently, 140 ski area operators lease a total of 182,000 acres of National Forest Service lands (about 0.1 percent of all Forest Service land). The lease terms are for 30 or 40 years and are automatically renewable. In 1994, the ski areas paid $19 million in permits fees, or 2 percent of their gross receipts of $939 million.

The Forest Service uses the Graduated Rate Fee System to determine the fees to be charged. This system is costly for the Forest Service to administer and requires the ski operators to keep a separate set of books. The Forest Service was directed in 1986 to develop a permit fee system which would provide a fair market return, but has been unable to make any progress in that effort. The new fee system in this part is designed to be revenue neutral,

while simplifying the fee collection system for the Forest Service and the ski area operators.

The purpose of this part is to reform the manner in which the Forest Service collects fees from ski area permit holders and to authorize the sale of certain ski areas on Forest Service lands.

Part 3—Domestic Livestock Grazing

Secs. 9331–9336. Domestic livestock grazing

The regulations and laws governing grazing on Bureau of Land Management [BLM] land prior to the implementation of Secretary of the Interior Bruce Babbitt's "Rangeland Reform 1994" regulations would be codified as amended by the changes contained in this part. This would put in place long standing regulations as in effect on January 1, 1995, and prevent the costly implementation of new regulations associated with "Rangeland Reform 1994."

Current regulations governing grazing on lands administered by the Forest Service are substantially different from those governing lands administered by the BLM. This part would prospectively change the law to require that the Forest Service regulations substantially mirror those of the BLM. Cost savings would occur for both Federal agencies as well as the permittees who are now faced with two sets of separate and distinct regulations.

This part would also establish a gross return fee formula based on a 3-year rolling average of the gross value of production of livestock, as determined by the Economic Research Service, multiplied by the 10-year average of the U.S. Treasury Securities 6-month Treasury Bill "new issue" rate and divided by 12. Using this formula, the grazing fee per animal unit month [AUM] for 1993 would be $2.15. The fee under current law is set at $1.61. Thus, the new fee is a 33 percent increase over current law. The Congressional Budget Office has scored the new fee as raising $30 million over 5 years, of which $9 million goes to the States and $21 million to the U.S. Treasury. This is an attempt to implement a fee that more fairly reflects market rates for forage.

Under existing law, BLM allows for subleasing without a surcharge when approved by BLM. This part requires a subleasing charge equal to 25 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per year of the appropriate State. This applies to livestock not owned by a permittee's spouse, son, daughter, grandson, or granddaughter. This is meant as a deterrent to subleasing as well as a means of raising revenues.

For calculation of the Federal grazing fee, current law defines one animal unit month [AUM] as one cow, bull, steer, heifer, horse, burro, mule, or five sheep or goats. The bill amends this definition only by changing five sheep or goats to seven sheep or goats to more realistically reflect the forage consumed by sheep and goats.

Current law establishes permit tenure at 10 years. This part amends this period to 15 years to provide greater stability to the livestock community.

Finally, this part provides relief to the current problem of reissuing expiring grazing permits for ranchers in good standing. It amends current law to state that the issuance of a grazing permit

and other livestock grazing activity and management actions with a valid land use plan under the National Environmental Protection Act [NEPA] are ongoing government action that do not require further NEPA documentation. This solves an ongoing concern by Federal agencies over whether they must comply with NEPA when issuing grazing permits and for other minor livestock grazing activities and management actions. Significant cost savings will be realized as the Federal agencies are not required to conduct an involved NEPA analysis on individual grazing permits.

Part 4—Regional Disposal Facility of Southwestern Low Level Radioactive Waste Disposal Compact

Secs. 9341–9342. Conveyance of property; conveyance of easements

The Low Level Waste Policy Act Amendments of 1985 made low level radioactive waste disposal a State responsibility and encouraged the formation of interstate compacts to provide for regional disposal. The State of California joined with Arizona, North Dakota and South Dakota to form the Southwestern compact for low level waste disposal. Ward Valley, located 22 miles west of Needles, CA, is the selected site for this compact. The public need for the Ward Valley facility is compelling because no disposal alternatives exist in the compact States for the biotech companies, hospitals, labs, universities, and medical centers that produce the low level waste. As a result, the waste is being stored on site at thousands of facilities throughout California and the other compact States, posing a potential danger in the event of a disaster. Following 8 years of technical evaluation and analysis, and the expenditure of $45 million by a private licensee designated by the State, the California Department of Health Services issued a license for the Ward Valley facility site in 1993. The licensing process followed an extensive national sitting process which involved significant public input. A final environmental impact statement and a biological opinion regarding the desert tortoise have been completed.

The selected site is on BLM held land, thus necessitating a land transfer from BLM to the California Department of Health Services. Despite the State's license approval, the Secretary of the Interior refused to transfer the land until a National Academy of Science [NAS] study was completed and a report issued on the theory of potential groundwater contamination by the proposed facility. The NAS issued its report May 11, 1995, and concluded that groundwater contamination "is highly unlikely."

Despite the NAS findings, the Secretary did not transfer the land. Instead, he sought an agreement with the State of California that would provide the department with an oversight role of the facility and would impose additional compliance terms and conditions on the State. Extensive discussions between the department and the State failed to produce an agreement. Governor Wilson has requested that Congress act to transfer the land. The committee believes that such action is appropriate in light of what has become an never-ending dispute—in which it had been clear to the committee for some time that all outstanding reasonable issues have been resolved.

SUBTITLE D—TERRITORIES

Part 1—Commonwealth of the Northern Mariana Islands

Sec. 9401. Termination of annual direct grant assistance

The Northern Mariana Islands [NMI], previously part of the United States administered Trust Territory of the Pacific Islands and now a U.S. territory, have received a generous stream of special annual grants from the Federal Government since the NMI chose to come under U.S. sovereignty. The special grant authorization is contained in the law approving the Covenant which provided the framework for the current Federal-territorial relationship. It appears the grants have produced the intended results as the Marianas now enjoys one of the highest standards of living in the Pacific.

NMI's Gov. Froilan Tenorio testified before the Subcommittee on Native American and Insular Affairs on January 31, 1995, that the NMI no longer needs the funds and asked Congress to eliminate the special annual grant. He stated "The time must come to end the annual Federal payment to the Northern Mariana Islands. The Federal Government is not helping us by giving us this money."

The $27.72 million annual funding would terminate effective October 1, 1995, and result in savings of $194 million over 7 years. This cessation of the grant would not affect the full spectrum of Federal funding currently received by the NMI. Moreover, the NMI still has yet to expend over $80 million in accumulated special annual grant funds from current and prior years.

Part 2—Territorial Administrative Cessation Act

Sec. 9421–9424. The Territorial Administrative Cessation Act

Mr. Gallegly introduced legislation in the 103d Congress to end the administration of territories from the Department of the Interior. This mirrored an earlier precedent involving the unincorporated territory of Puerto Rico. In 1961, Puerto Rico ceased to be administered by the Department of the Interior, having achieved a significant level of self-governance. The other territories of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands have also developed similar levels of local self-governance. There has been a general consensus for some time that the United States should terminate the direct administration of territories.

In January 1995, the administration finally agreed to end the administration of territories by announcing the closure of the Office of Territorial and International Affairs [OTIA]. Although the action was claimed to be a major example of reinventing government and cutting Federal costs, the administration's proposal would save a meager $1 million per year. In stark contrast, this part would statutorily eliminate OTIA, the position of an associated assistant secretary, and related technical assistance programs managed by that office, and realize savings of nearly $120 million over 7 years.

In support of this effort, Gov. Roy L. Schneider of the Virgin Islands testified before the Subcommittee on Native American and Insular Affairs that "[a]bolishing the office may save the Federal Government money and it will not harm the territories."

This is a new era for the territories. It's time to recognize their ability to govern themselves and end the old way of directing the territories by bureaucrats in Washington.

SUBTITLE E—MINERALS

Part 1—Hardrock Mining

Secs. 9501–9505. Hardrock mining

Mining is a key basic industry. The industry produces metals and minerals which are essential for agriculture, construction and manufacturing. In the latter case, a recent study by the National Research Council concluded that one of the primary advantages that the United States possesses over its strongest industrial competitors, Japan and Western Europe, is its domestic resource base.

Evidence is mounting that while global mineral exploration trends are strongly positive, U.S. mineral exploration has entered a protracted downward spiral. For example, the number of active Federal mining claims has fallen by two-thirds since 1989 and a recent survey of North American precious metal producers showed that North American mining companies are spending 61 percent of their exploration and development moneys outside the United States compared to spending about 80 percent of these monies within the United States in 1988. Continuation of present domestic mineral exploration trends will eventually result in the significant loss of domestic mineral production and thousands of high-paying, skilled jobs in the mining and mineral processing industries, and increased reliance on foreign mineral supplies which will aggravate the Nation's trade deficit.

Most mining observers believe that the current trend in U.S. exploration and development expenditures is due to growing uncertainty over doing business in the United States—not because all of the large mineral deposits have been discovered. A major cause of this growing uncertainty is the long-simmering, unresolved controversy over the mining law.

The amendments to the mining law proposed in this part provide a balanced approach which will provide a stable business climate conducive to mining investment while raising new revenues to help balance the budget and narrow the deficit. These amendments will impose a 3.5 percent net proceeds royalty on hardrock mining on Federal lands as well as reasonable fees on mining claims and will raise millions of dollars in Federal revenues. An annual labor credit against claim maintenance fees will encourage exploration on Federal lands and help reverse the present downward trend in domestic exploration expenditures.

This part also changes the current patenting charges by requiring that miners pay fair market value for the surface of the land they use for mining. The current charges for patenting are probably the most controversial issue in the contentious mining law debate. Location and patenting of deposits of mineral materials as defined in the Surface Resources Act of 1955 is also ended. The "uncommonness" determination is burdensome and costly to the government and claimants alike. The Materials Act of 1947 is amended to allow for long-term leasing of mineral materials deposits.

Threatened action by the Secretary of the Interior to dramatically raise royalty rates on sodium leases within the Green River basin of Wyoming prompted the provision to limit secretarial discretion under the Mineral Leasing Act of 1920 to set these royalty terms. Domestic production of soda ash is dominated by natural soda ash produced from the mineral trona. U.S. producers are able to compete worldwide against synthetic soda ash producers because of the cost advantages of converting trona to soda ash. The export market is very important in the rising demand for soda ash. The committee is concerned about the complex effect of royalty rates increases on net receipts to the Treasury, yet the Secretary is not even considering this impact while studying the issue. Meanwhile, no new tracts have been posted for lease for over a decade yet abundant evidence suggests the new leases could be let and production expanded if a stable reasonable royalty environment is imposed. Accordingly, significant bonus bid and production royalty revenues have been denied both the Federal and State treasury by the Secretary's inaction.

Part 2—Federal Oil and Gas Royalties

Secs. 9511–9526. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1995

The existing oil and gas mineral leasing laws, regulations, policies and procedures related to obligations arising from leases administered by the Secretary of the Interior are lacking in clarity, consistency, and reciprocity, and contain inequities which impose unnecessary and unreasonable costs and burdens on lessees and the Federal Government. The Federal Royalty Program is overly complex, burdensome, and unfair for oil and gas companies who seek to do business with the Department of the Interior for both onshore and offshore leases. Currently, multiple conflicting statutes of limitation and recent court decisions have created uncertainty and unfairness for companies subject to indefinite audit collection. For example, the courts in *Phillips* v. *Babbitt*, No. 93–1377 (5th Cir., Sept. 7, 1994) and *IPAA* v. *Samedan* (D.C. Dist., May 1995), held no statute of limitations applies. These cases as well as numerous other recent court decisions compel enactment of this legislation.

Specifically, this part establishes a clear, certain, and reciprocal period of limitation for the bringing of judicial and administrative proceedings; conforms the recordkeeping requirement to the period of limitation; and establishes a 3-year time limitation in which the Secretary must issue a final agency action in any appeal or administrative proceeding pending within the Department of Interior.

In addition, current law restricts a lessee's access to an overpayment made to the Federal Government and does not provide for the time value of money, is inequitable and encourages underpayments. Therefore, this part makes clear and certain the rights of the Secretary, the United States and lessees with regard to the right to refund of overpayments made to the United States, and the payment of interest on such overpayments.

Simplification and streamlining recommendations have been made to the Secretary of the Interior regarding the Minerals Man-

agement Service's Royalty Management Program in the past, and numerous studies have been conducted reviewing various aspects of the program. Yet meaningful and timely reform has not been achieved. The committee intends that the Secretary implement congressionally mandated reform to simplify and streamline the royalty reporting and collection processes thereby collecting royalty obligations sooner. To this end, this part implements and maintains an effective and efficient management program for leases administered by the Secretary; streamlines administrative procedures and processes; and reduces the administrative costs and paperwork burdens of the Secretary and lessees.

The overall purpose of this part is to establish and enforce a clear, certain and equitable mineral leasing laws for the effective and efficient administration of leases by the Secretary of the Interior allowing exploration and development of oil and gas resources on Federal lands and the Outer Continental Shelf. This part in no way affects Indian lands or alters how the Federal Oil and Gas Royalty Management Act of 1982 applies to Indian lands.

This legislation is prospective only and accomplishes across-the-board fairness for all matters related to the payment of Federal oil and gas royalties, resulting in a simpler and more cost-effective way to conduct royalty business. Under this part, there will be no reduction in royalty obligation. This part will also promote increased development on Federal lands and ensure that the Secretary has the necessary enforcement tools for proper collection of royalties.

SUBTITLE F—INDIAN GAMING

Part 1—Indian Gaming

Sec. 9601. Indian gaming

The National Indian Gaming Commission is authorized, pursuant to Public Law 100–497, to collect up to $1,500,000 annually in fees from certain Indian gaming activities to be used to fund the Commission's operations. In addition, there are authorized to be appropriated by Congress such sums as may be necessary for the operation of the Commission.

In years past and proposed for fiscal year 1996, Congress has appropriated an annual amount of $1 million to the Commission. This section would increase the authority of the Commission to impose fees by $1 million and would terminate the authority of Congress to appropriate funding for the Commission.

Part 2—Indian Health: Medicaid

Part 3—Indian Health: Medicare

Secs. 9611–9622. Health care facilities; provider reimbursement; study; health care facilities; provider reimbursement

This part would not increase Federal spending. Instead it will ensure that tribal health programs will continue to be able to treat Indians who are Medicaid or Medicare eligible when new State plans are created as a result of reforms currently proposed by Congress.

In particular, this part is intended: First, to ensure that Indian Health Service and tribal health programs that currently participate in the Medicaid and Medicare programs will continue to be eligible providers under any new State plans created as a result of Medicaid and Medicare reform;

Second, to ensure that all Medicaid-eligible Indians will still have the ability to receive care from a State plan provider under any new State plan created pursuant to proposed Medicaid reform legislation;

Third, to ensure that a private health care provider which provides services to Medicaid-eligible Indians is not denied payment by the State on the grounds that the State is the payor of last resort and the provider should first seek reimbursement from the Indian Health Service (IHS);

Fourth, to ensure that tribes are consulted in the development of State plan standards under Medicaid reform;

Fifth, to require the Secretary of Health and Human Services to carefully study the effects of Medicaid reform on Indians and Indian tribes, and report to Congress as to whether the effects are good or bad and what can be done to improve Medicaid for Indians; and

Sixth, to allow tribally operated health programs which own their own facilities to participate in the Medicare and Medicaid programs. The Indian Health Care Improvement Act contains an unintended loophole which only allows Indian Health Service and tribal programs which operate out of IHS-owned facilities to participate in these programs.

SUBTITLE G—CONSULTATION

Sec. 9701. Consultation

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) requires that every Federal agency shall consult with the Secretary of the Interior to ensure that any action authorized, funded, or carried out by that agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the adverse modification of critical habitat of that species. After the consultation process is initiated and before the Secretary issues his opinion, neither the Federal agency or any permit or license applicant may make any irreversible or irretrievable commitment of resources regarding the proposed action that might foreclose the formulation of any reasonable and prudent alternative to the action that would not otherwise jeopardize the continued existence of the species. A number of lawsuits have resulted in which injunctions have been issued to stop projects from moving forward where consultation on the project has been completed, but where the court has ordered consultation on related underlying programmatic documents which authorized those types of projects. This section is needed to make clear the intent of Congress that the prohibition on the irreversible or irretrievable commitment of resources is limited to particular projects or site specific activities.

SUBTITLE H—MAPPING

Secs. 9801–9806. Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act of 1995

In the Department of the Interior, there are 1827 employees engaged in surveying and mapping (as of September 30, 1994), according to data from the Office of Personnel Management. An Office of Management and Budget [OMB] survey (OMB Bulletin 93–14) estimated $761.7 million in budget authority in the Interior Department for geographic data activities (acquisition, management, and dissemination) in fiscal year 1993, and estimated the President's fiscal year 1994 budget request at $801.5 million. In fiscal year 1994, only 212 service contracts for geographic data activities totaling just $18.4 million were awarded to the private sector.

There is a capable and qualified private sector of more than 250 mapping firms and 6,000 surveying firms in the United States. The Interior mapping establishment duplicates the capabilities of the commercial, private sector. Moreover, not only do Federal agencies not contract a significant amount of their own work, but many agencies do work for other Federal agencies, as well as State, local, and foreign governments, in direct competition with the private sector.

For more than 20 years, numerous government studies have concluded that more contracting should be used in Federal surveying and mapping activities. In 1973 the Office of Management and Budget report of its Task Force on Mapping, Charting, Geodesy, and Surveying concluded, "private cartographic contract capability is not being used sufficiently. We found this capacity to be broad and varied and capable of rendering skilled support * * * Contract capability is a viable management alternative * * * Its use should be encouraged in lieu of continued in-house build-up."

A Bureau of Land Management report, "Managing Our Land Information Resources, 1989," found "[t]he private sector can play an important role in providing BLM with the massive amounts of data it requires for its three LIS [land information systems] components. BLM can avoid investing in necessary labor and technology by drawing on the capabilities of the private sector for the data gathering phase."

In 1990, OMB targeted mapping-related activities as an area for increased contracting in the President's budget submission to Congress. It said, "Privatization is an important management tool to raise productivity, cut costs and improve the quality of Government services * * * [the advantages of which are] * * * efficiency, quality and innovation in the delivery of goods and services * * * specific areas where the Government could place greater reliance on private sector providers include * * * map-making activities."

Also in 1990, the National Academy of Sciences, in a report entitled "Spatial Data Needs, February, 1990, said the U.S. Geological Survey should be "allocating adequate NMD [National Mapping Division] resources to information management and user/donor coordination, and if necessary, increasing these relative to traditional data production programs." This provision is consistent with the budget resolution. Included in the resolution is a provision stating "Congress should examine Federal functions to determine those

that could be more conveniently, efficiently and effectively performed by the private sector, and * * * facilitate the privatization of these functions.''

The conference report on the current Budget Resolution specifically addressed surveying and mapping, saying, ''U.S. Geological Survey conducts research and provides basic scientific and information concerning natural hazards and environmental issues, as well as water, land, and mineral resources. The USGS has three main divisions: the National Mapping Division [NMD], the Water Resources Division [WRD] and the Geologic Division. This proposal assumes that the NMD will aggressively price its products for additional revenue to the Treasury. It also assumes greater contracting out to the private sector, appropriate data gathering, and map and digital data production. Finally, it calls for consolidation of overlapping mapping efforts. Within the WRD, savings are first assumed in the Federal program for such subprograms as global change hydrology and core program hydrology research. Savings could also be achieved by increasing the State and local matching formula for the Federal/State Cooperative Program.''

In sum, the committee believes that requiring agencies in the Department of the Interior to contract with the private sector for surveying and mapping activities is an appropriate step for this Congress. While it is appropriate, proper and necessary for the Department to be involved in setting standards and specifications, research and technology transfer, and coordination in the area of geographic data, the actual collection of data, through surveying and mapping, is a commercial activity and should be performed by the private sector.

SUBTITLE I—NATIONAL PARK SYSTEM REFORM

Secs. 9901–9921. The National Park System Reform Act

The National Park Service [NPS] is charged with the stewardship of many of the nation's precious natural and historical resources. The 368 areas which make up the National Park System are a diverse collection of parks, historic sites, memorials, monuments, seashores, battlefields, parkways and trails. These areas are known throughout the world for their scenic beauty and historical significance. This subtitle is aimed toward maintaining the integrity of the National Park System through various improvements to the process of planning and establishing units of the National Park System.

NPS has been directed by Congress (16 U.S.C. la–5) to study and monitor areas to determine if they are nationally significant and whether they have potential for inclusion in the National Park System. To be eligible for favorable consideration as a unit of the National Park System, an area must: First, possess nationally significant natural or historical resources; second, be a suitable and feasible addition to the system; and third, require direct NPS management instead of alternative protection by other agencies or the private sector. These criteria are designed to ensure that the National Park System includes only the most outstanding examples of the nation's heritage. After the NPS studies a potential new area, their study is forwarded to Congress.

The committee believes that the lack of an overall plan to guide the future of the National Park System is a serious deficiency. Section 8 of the Act of August 18, 1970 (commonly known as the General Authorities Act), requires the Secretary of the Interior to prepare a comprehensive "National Park System Plan" which identifies natural and historic themes of the United States, from which areas can be identified and selected to be units of the National Park System. While the NPS has prepared natural and historical Thematic Frameworks, these documents cannot really be considered "plans." Instead, these documents list major natural and historical themes of the United States and then describe how the themes are represented by existing National Park System units and historic landmarks. These documents do not contain direction about what the National Park System should include, what areas are priorities for addition to the system, or what themes are currently overrepresented in the National Park System. The lack of an overall plan to guide the direction and expansion of the system is problematic for both NPS and Congress when it comes to making decisions about adding new units to the National Park System.

Another area where reforms are needed is the process by which areas for addition to the Park System are studied and recommended for Congressional consideration. Congress relies heavily on NPS studies to make evaluations about the significance of an area and its suitability for designation as a National Park System unit. Between 1976 and 1981 the NPS had a program of identifying high priority candidates for study. This program was terminated in 1981, and until very recently, NPS has not had a legislative program to recommend potential new parks. In the absence of any initiatives coming from the NPS, Congress directed numerous studies of specific areas both in authorizing legislation and in appropriation act earmarks.

Several problems with the current new area study process exist. First, there are three separate sources for new area studies: the NPS itself, the authorizing committees and the appropriations committees. There is no agreed upon process for ranking the priority of these studies, nor is there adequate funding to complete all of them. Because studies usually require 2 to 3 years, some studies are delayed indefinitely or are started then stopped in midstream because all available funding in a particular fiscal year is earmarked for other studies. The quality of the studies also ranges widely, as does the level of review and scrutiny by the Washington Office of the NPS. It has been too easy for political considerations to be injected into the study process, and recommendations of professional planners are sometimes changed for political reasons. Another serious problem is that studies come to Congress without any preferred action, which can lead to confusion regarding the administration's position on a particular area. New area legislation may be introduced on the basis of an ambiguous study, when in fact the resource involved might not meet the criteria for designation.

Finally, Members of Congress, the administration and the public have all expressed the desire to maintain a high level of integrity for units of the National Park System. Views have been expressed that some of the 368 units of the National Park System may not now meet the criteria of national significance, suitability and fea-

sibility and do not belong in the National Park System. In fact, the administration recently recommended that portions of several units be turned over to the States. The lack of consensus regarding the future of areas currently managed by the NPS could be due to inaccurate information about the significance of an area at the time of designation, degradation of a resource after its designation or a realization that another agency or level of government would be a more appropriate entity to manage a particular area. While there have been about two dozen park deauthorizations in the past, there has never been a systematic evaluation of the entire National Park System to determine if certain areas would be more appropriately managed outside the National Park System.

COMMITTEE ACTION

The Committee on Resources met on September 19, 1995, to consider a committee print to fulfill the committee's instructions under the Budget Resolution. Thirty-nine amendments were offered and disposed of, as described by subtitle below.

SUBTITLE A—ALASKA AND HELIUM PRIVATIZATION

Part 1—Alaska

Sec. 9001. Exports of Alaska north slope oil

This section is based on the text of H.R. 70, introduced on January 4, 1995, by Mr. Thomas and referred to the Committee on Resources. On May 9, the committee held a hearing on H.R. 70, at which Mr. Thomas, the administration, the State of Alaska, oil producers, maritime labor, and others testified in favor of the bill. Representatives of independent refiners, shipbuilders, and a refinery union testified in opposition. In expressing general support for the bill, the administration indicated that it should be amended first, to provide for an appropriate environmental review; second, to allow the Secretary of Commerce to sanction any anti-competitive behavior by exporters; and third, to establish a licensing system.

On May 17, 1995, Full Resources Committee ordered H.R. 70 reported with amendments, by a voice vote, to the House of Representatives. H.R. 70 was passed by the House of Representatives under a Rule on July 24, 1995, by a 324–77 vote. A companion Senate bill, S. 395, passed the Senate on May 16, 1995, by a 74–25 vote. The bills are now in conference.

During consideration of the committee print, no amendments were offered to this section.

Sec. 9002. Arctic Coastal Plain leasing and revenue

On August 1, 1995, the committee held a hearing on the issue of potential oil and gas leasing in the 1.5 million acre Coastal Plain area of the Arctic National Wildlife Refuge. The committee heard from witnesses representing the administration, the oil industry, the Alaska Native community and the environmental community.

During the consideration of the committee print, the committee considered and disposed of the following amendments to section

9002: An amendment offered by Mr. Young of Alaska, making some technical and corrective changes, was adopted by voice vote.

An amendment offered by Mr. Vento, striking section 9002, was defeated by a rollcall vote of 14–27, as follows: An amendment offered by Mr. Miller of California, requiring the Secretary of Interior, upon the filing of any legal action by the State of Alaska, to suspend any activities relating to an oil and gas leasing program authorized by this section, until a final nonappealable decision is issued, was defeated by a rollcall vote of 14–27, as follows:

An amendment offered by Mr. Miller of California, requiring that 90 percent of all revenues go to the State of Alaska, pursuant to the Alaska Statehood Act, and 10 percent would go to the Federal Government, failed by a rollcall vote of 7–33 as follows:

An amendment offered by Mr. Vento, precluding any oil and gas produced from lands leased under this section from being exported, failed by a rollcall vote of 12–25, as follows:

An amendment offered by Mr. Abercrombie, lifting the prohibition on development contained in section 1003 of the Alaska National Interest Lands Conservation Act only for subsurface lands owned by the Arctic Slope Regional Corporation, failed by voice vote.

An amendment offered by Mr. Faleomavaega, requiring recipients of leases, permits or authorizations under section 9002 to use their best efforts to assure that a fair share of employment and contracting is done with Alaska Natives and Alaska Native Corporations, passed by voice vote.

An amendment offered by Mr. Abercrombie, establishing a $5 million community impact assistance fund, passed by voice vote.

An amendment was offered by Mr. DeFazio, striking the application of environmental laws subsection, failed on voice vote.

An amendment offered by Mr. Young of Alaska, establishing a National Endowment for Fish and Wildlife, was adopted by voice vote.

Sec. 9003. Alaska Power Administration sale

This section is based on the text of H.R. 1122, introduced on March 3, 1995, by Mr. Young of Alaska. The bill was referred to the Committee on Resources, and within the committee was referred to the Subcommittee on Water and Power Resources. On March 15, 1995, the Subcommittee held a hearing on H.R. 1122, where the State of Alaska, the Clinton administration and purchasers testified in support. On May 11, 1995, the Subcommittee reported out H.R. 1122, with an amendment, by voice vote. On May 17, 1995, the Full committee ordered the bill reported by voice vote with further amendments.

During consideration of the committee print, an amendment was offered by Mr. Miller of California requiring the price charged for the sale of the APA facilities be no less than the net present debt value of the outstanding debt owed to the United States. The amendment failed by voice vote.

Part 2—Helium Privatization

Secs. 9011–9018. Helium Privatization Act of 1995

This part is based on the text of H.R. 873, introduced on February 9, 1995, by Mr. Cox. The significant differences included in the committee print changed the helium production, refining, and marketing shutdown from 1 year to 18 months, and the timing for disposal of facilities, equipment, and property from 1 year to 2 years after cessation of production and refining operations. Similar legislation, H.R. 846, was introduced by Mr. Cremeans on February 7, 1995.

The bills were referred to the Committee on Resources, and then to the Subcommittee on Energy and Mineral Resources. On June 22, 1995, the Subcommittee held a hearing on H.R. 873 and H.R. 846, where representatives from the Bureau of Mines and the National Aeronautics and Space Administration testified in support of the concept of the termination of the program, yet differed principally in the timing of the shut down and importance of debt repayment. Other witnesses represented a balanced cross-section of affected interests.

During consideration of the committee print, three amendments to this part were offered. Mr. Thornberry offered an amendment similar to legislation originally offered by the Clinton administration. This amendment would extend the production shutdown time to 3 years, cancel the debt and increase the floor limit of the amount of helium to remain in the stockpile from 600,000 cubic feet to 5,000,000,000 cubic feet. This amendment failed by a rollcall vote of 9–27, as follows:

This amendment was offered with the intent that an adequate supply for Federal users be preserved, adequate transition time for employees be allowed, and to provide protection for the private industry, as well as act in the best interest of the taxpayers. The committee believes that all of these legitimate concerns are met by the committee print.

A second amendment was offered by Mr. Thornberry for a land transfer of helium property in Potter County, TX, to the Texas Plains Girls Scout Council for $1, reserving easement rights. The amendment passed by voice vote.

A third amendment was offered by Mr. Abercrombie to require the Secretary of the Interior to use any portion of the Helium Production Fund for termination benefits for employees, including: education and job training funds, job search assistance, extended life insurance and health care coverage, leave allowances for job search activities, severance pay for employees receiving military retirement pay, compensation for unused sick leave, and priority placement in other government agencies. During debate on this amendment, Mr. Calvert reiterated the committee's view that under the provision in the committee print, the Secretary should and can exercise broad discretion, under existing law, in developing severance packages for terminated employees. This amendment failed by record vote of 14–22, as follows:

SUBTITLE B—WATER AND POWER

Part 1—Power Marketing Administrations

Secs. 9201–9204. Power Administration Act

On May 18, 1995, the Subcommittee on Water and Power Resources conducted a hearing concerning the possibility of selling one or more of the PMA's and the various issues raised by such a sale. Hearing witnesses included several Members of Congress as well as representatives of the major interest groups. Several legislative proposals have been introduced this year in the House with a primary or secondary objective to privatize the PMA's. For example, Mr. Klug introduced H.R. 310, which calls for privatization of all of the PMA's through an open bidding process.

During the consideration of the committee print, five amendments were offered to the PMA sale portion of the print. The first, by Mr. Johnson of South Dakota, would have struck the PMA sale sections. That amendment was defeated on a bipartisan rollcall vote of 18–19, as follows:

The second amendment, by Mr. Dooley, added the Secretary of the Interior to the study section of the bill and other added equity interests as the subject of the study. It was passed by voice vote. The third was an amendment by Mr. Pickett which specified that the sales are subject to existing storage rights in the reservoirs that are to be sold. It provided that local interests which hold those rights will not be required to enter into additional contracts to continue utilizing their rights. The amendment was passed by voice vote.

Mr. Gejdenson offered an amendment which addressed the cost of water used to produce surplus crops. It failed on a rollcall vote of 12–23, as follows:

Mr. Allard also offered and withdrew an amendment which directed the Secretary of the Interior to convey the Collbran Reclamation project, Colorado, to the Ute Water Conservancy District and the Collbran Conservancy District.

Sec. 9205. Bonneville Power Administration appropriations refinancing

H.R. 799, which is almost identical to section 9205, was introduced on February 2, 1995, by Mr. Hastings. The bill was referred to the Committee on Resources, and within the committee to the Subcommittee on Water and Power Resources. On June 8, 1995, the subcommittee held a hearing on H.R. 799, where the administration testified in support of the bill, except for the study provisions contained in what is now subsection (k).

During consideration of the committee print, Mr. Hastings offered an amendment to section 9205(h) designed to clarify that BPA will only receive a credit against its repayment obligations in those years in which it actually makes payments to the tribes under the provisions of the Colville settlement agreement. The amendment was adopted by voice vote.

Part 2—Reclamation

Sec. 9211. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District

H.R. 1823, which is very similar to section 9211, was introduced on June 13, 1995, by Mr. Hansen. The bill was referred to the Committee on Resources, and within the committee to the Subcommittee on Water and Power Resources. On June 15, 1995, the subcommittee held a hearing on H.R. 1823, at which time the administration did not take a position on the bill. However, on July 5, 1995, the Commissioner of Reclamation sent the subcommittee a letter in which the administration recommended certain changes to the legislation which were incorporated in section 9211.

During consideration of the committee print, no amendments were offered to this section.

Sec. 9212. Treatment of city of Folsom as a Central Valley project contractor

No amendments were offered to this section during consideration of the committee print.

Sec. 9213. Sly Park

On June 15, 1995, the Subcommittee on Water and Power Resources held an oversight hearing on the possible transfer of Bureau of Reclamation facilities out of Federal control. At that hearing, the administration testified in support of the transfer of ownership and operation and maintenance of Federal reclamation facilities to non–Federal interests under appropriate conditions. At the same hearing, a board member for the El Dorado Irrigation District testified that the district felt the Sly Park unit was an appropriate unit to transfer out of Federal ownership because it is a detached unit of the Central Valley Project [CVP] and is operated independent of all other CVP facilities. In addition, he stated that it serves only the El Dorado Irrigation District and that all operations and maintenance have been performed and paid for by the district since the unit's construction in 1955.

Similar legislation to transfer the Sly Park unit passed the House on June 20, 1991, as title XXIV of H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991.

During consideration of the committee print, no amendments were offered to section 9213.

Sec. 9214. Hetch Hetchy Dam

No amendments were offered to this section during consideration of the committee print.

SUBTITLE C—NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

Part 1—Concession Reform

Secs. 9301–9318. Visitor Facilities and Services Enhancement Act

H.R. 2028, on which this part is based, was introduced by Mr. Hansen on July 13, 1995, and referred to the Committee on Resources, with sequential referrals to the Committee on Agriculture and the Committee on Transportation and Infrastructure. Within

the Resources Committee, the bill was referred to the subcommittee on National Parks, Forests and Lands. The subcommittee held a hearing on this legislation July 25, 1995.

During consideration of the committee print, Mr. Hansen offered an amendment which clarified the extent of concessioner interest in wholly federally owned buildings. The amendment was adopted by voice vote.

Part 2—National Forest Ski Areas

Secs. 9321–9322. Privatization of forest service ski areas; ski area permit fees and withdrawal of ski areas from operation of mining laws

This part is based on two bills, H.R. 2028, described above, and H.R. 1527, introduced by Mr. Young of Alaska on May 1, 1995. H.R. 1527 was referred to the Committee on Resources, and sequentially to the Committee on Agriculture. Within the Resources Committee, the bill was referred to the Subcommittee on National Parks, Forests and Lands. The subcommittee held a hearing on H.R. 1527 on July 25, 1995.

During consideration of the committee print, three amendments were considered to this part. The first, offered by Mr. Vento, struck the entire part. The amendment failed on a rollcall vote of 14–20, as follows:

Mr. Miller of California offered an amendment to change the word "shall" to "may" in section 9321(a) regarding the authority of the Secretary of Agriculture to offer ski areas for sale to qualifying ski operations. This amendment was withdrawn, and Mr. Hansen offered an amendment to clarify conditions regarding these sales. The Hansen amendment was adopted by voice vote.

Part 3—Domestic Livestock Grazing

Secs. 9331–9336. Domestic livestock grazing

The text included in this part is taken in part from H.R. 1713, introduced by Mr. Cooley on May 25, 1995, and referred to the Committee on Resources and sequentially to the Committee on Agriculture. Within the committee, the bill was referred to the Subcommittee on National Parks, Forests and Lands. The subcommittee held a hearing on H.R. 1713 on July 11, 1995, and marked up the bill on September 12, 1995.

During consideration of the committee print, Mr. Miller of California offered an amendment to require that the basic grazing fee contained in this part apply to permittees who graze 500 animal unit months [AUM] in a grazing fee year, and for permittees grazing more than 500 AUM's, the fee would be fair market rate. The Miller amendment failed on a rollcall vote of 8–26, as follows:

Part 4—Regional disposal facility of Southwestern Low Level Radioactive Waste Disposal Compact

During the 102d and 103d Congresses, the Committee on Resources held several hearings on low level waste related issues. In the course of those hearings, matters related to Ward Valley were examined. In the 104th Congress, the Committee on Resources in-

cluded legislative language directing the transfer of Bureau of Land Management land to the State of California for purposes of allowing the low-level waste facility to be constructed.

During consideration of the committee print, one amendment was offered to this part by Mr. Miller of California, to strike the provision. It was defeated on a voice vote.

SUBTITLE D—TERRITORIES

This subtitle was taken in part from the text of two bills, H.R. 602, introduced by Mr. Gallegy on January 20, 1995, and H.R. 1332, also introduced by Mr. Gallegly on March 28, 1995. Both bills were referred to the Committee on Resources (H.R. 602 was also referred to three other committees) and within the committee to the Subcommittee on Native American and Insular Affairs.

On January 31, 1995, the subcommittee held a hearing on H.R. 602, the Omnibus Territories Act, addressing a broad array of territorial issues, including the termination of funding for the Office of Territorial and International Affairs [OTIA] and the Northern Mariana Islands covenant grants. The subcommittee also held a hearing on H.R. 1332 on March 29, 1995.

On April 5, 1995, the subcommittee marked up H.R. 1332, and reported it by voice vote to the full Resources Committee with an amendment in the nature of a substitute which expanded the bill to include provisions from H.R. 602 which terminated both OTIA and the covenant grants. The full committee marked up H.R. 1332 on May 24, 1995, and ordered the bill, as amended, reported to the House of Representatives by voice vote.

No amendments were offered to this subtitle during consideration of the committee print.

SUBTITLE E—MINERALS

Part 1—Hardrock Mining

Secs. 9501–9505. Hardrock mining

An oversight hearing of the Subcommittee on Energy and Mineral Resources was held on January 31, 1995, to examine investment trends in hardrock mineral exploration and development to determine if our domestic mining industry is competitive in the internal arena. The transcript of the hearing was published as House Hearing 104–17.

H.R. 1580, a bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hardrock mining sites on Federal lands, and for other purposes, was introduced on May 9, 1995, by Mr. Young of Alaska. The bill was referred to the Committee on Resources, and within the committee to the Subcommittee on Energy and Mineral Resources. This part is derived from H.R. 1580 predominately, but does not contain the nonrevenue-generating provisions of that bill, and contains substantial revisions to the claim maintenance fees section.

In addition, an oversight hearing of the Subcommittee of Energy and Mineral Resources was held on May 8, 1995, to examine the

issue of a proposed administrative increase in the royalty rate for Green River, WY trona leases.

During the consideration of the committee print, Mr. Rahall offered an amendment to strike the entire part and substitute new provisions including imposition of a royalty of 8 percent of gross income with only such mining claims for which patent application was pending on January 27, 1995, potentially exempted from such terms, and extending the claim maintenance fees of the Omnibus Budget Reconciliation Act of 1993 in like manner. The amendment was defeated by rollcall vote of 13–18, as follows:

Mr. Calvert offered an en bloc amendment to: (1) clarify the intent of the committee in adopting the patent transition provision is to include claims, such as those delineated in section 106 of the California Desert Act of 1994, where wilderness study area status has kept the owners of several blocks of claims from being able to further prospect and develop their claims for over 10 years; (2) delete the provision for "down payments" in the committee print relating to payment of fair market value for the land within a claim to be patented; and (3) increase the fraction of royalty receipts returned to the State where production occurred to one-third. The en bloc amendment was adopted by a rollcall vote of 22–12, as follows:

Mr. Abercrombie offered an amendment to strike provisions delineating certain allowable deductions for royalty purposes, including costs of support personnel directly associated with mine operation, depreciation of capital assets associated with operation of a mine, and reasonable allowance for overhead. The amendment was defeated by a rollcall vote of 11–23, as follows:

Mr. Abercrombie offered an amendment to raise the minimum royalty rate on sodium compounds produced under the Mineral Leasing Act of 1920 to not less than 8 percent of gross proceeds. The amendment was defeated by voice vote.

Mrs. Cubin offered an amendment to limit the royalty rate on sodium compounds to not greater than 5½ percent of the gross proceeds unless and until a report to Congress prepared by the Secretary of the Interior in consultation with the Secretary of Commerce and the U.S. Trade Representative regarding export considerations recommends a further increase, and directed the Secretary of the Interior to offer for competitive bid within 90 days of enactment sodium leases on tracts now pending application. The amendment was adopted by voice vote.

Part 2—Federal Oil and Gas Royalties

Secs. 9511–9526. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1995

The basis for this part, H.R. 1975, was introduced on June 30, 1995, by Mr. Calvert. The bill was referred to the Committee on Resources, and within the committee to the Subcommittee on Energy and Mineral Resources. On July 18, 1995, the subcommittee held a hearing on H.R. 1975 where the administration testified in support of many of the goals of the legislation. On August 4, 1995, Mr. Calvert and Mr. Abercrombie met with representatives of the administration, States, and industry and requested the parties to work together to narrow the differences evidenced by testimony

from the hearing. Discussions were held in August 1995, by which new language was crafted and incorporated into the committee print for budget reconciliation.

During consideration of the committee print, Mr. Calvert offered eight amendments en bloc to this part. Mr. Abercrombie offered a division motion, and the amendments were discussed individually. Upon completion of the discussion, the amendments were adopted by voice vote. The Calvert en bloc package included the following amendments:

Amendment No. 1 struck the restructured accounting language in section 9512 so that the statute of limitations is not defeated by this procedure. Overall, no extensions of the time limit are allowed unless a company refuses to comply with an order or notice as specified in this part.

Amendment No. 2 struck the definition of the United States in section 9512 so that States can file suits, consistent with this part.

Amendment No. 3 added paperwork reduction requirements in section 9521 to royalty activities, thereby reducing paperwork burdens and the cost of royalty collections.

Amendment No. 4 clarified royalty liability in section 9512 by delineating the Federal Government's ability to collect a royalty to the actual responsible party.

Amendment No. 5 clarified which persons within the Department of the Interior who may issue a subpoena to obtain records.

Amendment No. 6 amended the interest provisions to equate the interest rate payable on royalty overpayments to that which the Internal Revenue Service currently pays to income tax payers.

Amendment No. 7 struck section 9519, thereby restoring the provision that the plaintiff give 60 days notice prior to filing a lawsuit regarding outer continental shelf matters.

Amendment No. 8 included technical changes clarifying a State's rights under the bill, including the right to define marginal properties, and to reject any sale of marginal properties proposed by the Secretary. The amendment also clarifies that the Secretary shall waive interest when it is not cost effective or efficient to collect, and provides for the royalty report to serve as notice for any adjustment on an overpayment or underpayment.

Mr. Dooley offered an amendment to extend the payment due date for royalties to the last day of the second calendar month after production is due. This amendment requires the Secretary to implement this extension in a phased-in manner, provided it does not have a negative impact on the Federal budget. This amendment passed by voice vote.

Mr. Faleomavaega offered an amendment to clarify the effect of this part on Indian tribes. The amendment passed by voice vote.

SUBTITLE F—INDIAN GAMING AND HEALTH

Mr. Faleomavaega offered an amendment clarifying Medicare and Medicaid benefits to Native Americans if new State plans are created as a result of reforms currently proposed by Congress. The amendment was adopted by voice vote.

SUBTITLE G—CONSULTATION

A technical amendment to clarify the intent of section 9701 was offered by Mr. Pombo, and adopted by voice vote.

SUBTITLE H—MAPPING

The provisions contained in the committee's reconciliation language are very similar to bills which have been introduced for the past several Congresses. The issues addressed by these provisions have been discussed in previous Congresses as well.

During consideration of the committee print, Mr. Abercrombie offered an amendment to strike this subtitle, but withdrew it.

SUBTITLE I—NATIONAL PARK SYSTEM REFORM

H.R. 260 was introduced on January 4, 1995, by Mr. Hefley. The bill was referred to the Committee on Resources, and within the committee to the Subcommittee on National Parks, Forests and Lands. On February 23, 1995, the subcommittee held a hearing on H.R. 260, where a broad spectrum of witnesses testified in support of the entire bill and the administration testified in support of a portion of it. On March 29, 1995, the subcommittee ordered H.R. 260 reported with amendments by voice vote.

On May 17, 1995, the full Resources Committee ordered H.R. 260 reported with further amendments by a rollcall vote of 34–8. On September 19, 1995, H.R. 260 was defeated under suspension of the rules by a record vote of 180–231.

During consideration of the committee print, Mr. Hansen offered the Resources Committee reported text of H.R. 260 as a new subtitle. The amendment passed by a rollcall vote of 23–7, as follows:

Finally, Mr. Gejdenson offered an amendment created a new subtitle regarding reliance on Forest Service timber sale receipts to fund timber sales. The amendment was defeated on a rollcall vote of 11–26, as follows:

The committee print, as amended, was adopted and ordered submitted to the Committee on Budget by a rollcall vote of 25–12, as follows:

SECTION-BY-SECTION ANALYSIS

Sec. 9000. Table of contents.

This section contains the table of contents for the committee print.

SUBTITLE A—ALASKA AND HELIUM PRIVATIZATION

Part 1—Alaska

Sec. 9001. Exports of Alaska North Slope Oil

Subsection (a) amends section 28 of the Mineral Leasing Act to allow the export of any oil transported by pipeline over a right-of-way granted pursuant to the Trans Alaska Pipeline Authorization Act unless the President finds that exports are not in the national interest. It also directs the President to make a national interest determination within 5 months after enactment.

The section requires the President to consider, in making his national interest determination: First, whether exports would affect the quality or quantity of oil available in the United States; second, the results of an environmental review and any measures necessary to mitigate adverse environmental effects of exports; and third, whether exports are likely to cause oil supply shortages that impact prices above the world market price or that cause sustained material adverse employment effects.

The section allows the President to impose conditions, other than a volume limitation, as are necessary, and requires any oil exported to be carried in U.S.-flag, U.S.-manned vessels except when exported to Israel and other countries pursuant to the international emergency oil sharing plan of the International Energy Agency. The section also preserves the President's inherent authority to retract exports in an emergency.

Section 9001 requires that any rules necessary for implementation of the President's national interest determination be issued by the Secretary of Commerce, in consultation with the Secretary of Energy, within 30 days of the President's determination. The section allows the Secretary of Commerce, in consultation with the Secretary of Energy, if they find that the oil supply shortages and price increases have caused adverse employment effects, to recommend to the President appropriate actions, including revoking the authority to export.

Finally, the section requires the General Accounting Office to report to Congress 2 years after enactment on findings related to effects of exports on consumers, independent refiners, and shipbuilding and ship repair yards on the west coast and in Hawaii.

Sec. 9002. Arctic Coastal Plain leasing and revenue

Subsection (a) sets forth the purpose of section 9002, which addresses and authorizes oil and gas leasing in the 1.5 million acre coastal plain area of the Arctic National Wildlife Refuge [ANWR]. The purpose of this section is to reduce the Federal deficit by increasing Federal revenues by an estimated $1.3 billion over the 5-year budget window following the enactment of section 9002. The source of this new revenue will be from competitive bonus bids made at Federal oil and gas lease sales within the 1.5 million coastal plain area of the 19 million acre Arctic National Wildlife Refuge. The coastal plain consists of 1.5 million acres, 92,000 acres of which is private property owned by the Inupiat Eskimo people who live on the North Slope of Alaska. This area is adjacent to Prudhoe Bay and other producing oil fields on the North Slope. The Village of Kaktovik is the only community located in the coastal plain. The Inupiat Eskimo residents of Kaktovik support the lease sale and have adopted resolutions urging favorable action. This area is intensively used by the Inupiat for subsistence and cultural purposes. The coastal plain is also the site of a major Department of Defense facility.

Subsection (b) sets forth definitions for the terms as they are used in section 9002.

Subsection (c) sets forth a congressional determination of "compatibility." The subsection states that no further findings or determinations of congressional compatibility or by any Federal official

under any other provision of law is required to implement this congressional determination authorizing oil and gas leasing in the coastal plain. For example, no further findings or determinations need to be made by the Secretary of the Interior under the National Wildlife Refuge System Administration Act to implement this determination.

In making the determination set forth in this subsection, the committee notes the unique status of the coastal plain resulting from the provisions in the Alaska National Interest Lands Conservation Act of 1980 [ANILCA]. ANILCA required a special 5-year study of the coastal plain's wilderness, wildlife, energy, and other values and directed that Congress be the final arbiter of any and all competing values or interests in this area. The language in this subsection concerning oil and gas leasing, exploration, development and transportation and this compatibility determination should not, however, be viewed as a precedent with respect to other units of the refuge system or a precedent for other nonoil and gas related uses in ANWR.

Subsection (d)(1) directs the Secretary and other appropriate Federal officers and agencies to take such actions as are necessary to authorize, establish and promptly implement a competitive oil and gas leasing program that will assure the expeditious exploration, development, production and transportation of the oil and gas resources of the coastal plain. The subsection requires the Secretary to implement this program and to promulgate all regulations to govern leasing, exploration, development and production within 6 months of the date of enactment of section 9002.

Subsection (d)(2) sets forth the basic terms and provisions that the Secretary is to address and to include in the regulations promulgated under subsection (d)(1) to implement an oil and gas leasing program within the coastal plain. The regulations and lease terms and provisions shall include the following:

The coastal plain oil and gas lease sale is to be conducted within 12 months of the date of enactment of section 9002. This expeditious action is required to ensure that revenue from bonus bids for coastal plain leases are promptly provided to the Federal Treasury to address the Federal deficit as provided for in the recently adopted budget resolution. Expedition is also needed because of the long lead time required to develop oil and gas resources on the North Slope due to many factors, including extreme Arctic climate conditions; the need to accommodate fish and wildlife needs; and the very cumbersome and protracted Federal regulatory and permitting process. Swift action is also required because production at Prudhoe Bay and other North Slope oil fields, which had been in excess of 2 million barrels of oil per day, has declined since 1990 to 1.5 million barrels per day. It is very important that new sources of oil, such as the coastal plain, be placed into commercial production as soon as possible to replace depleting oil resources. Otherwise, commercial operation of the Trans–Alaska Pipeline cannot be maintained. If commercial production falls to such low levels that pipeline operation must be discontinued, the pipeline will be closed and under applicable Federal regulations and permit stipulations the pipeline will have to be dis-

mantled and removed. Such a result would mean that further production of newly discovered oil resources on the North Slope would require costly construction of an immensely expensive new transportation system.

The competitive leasing program developed by the Secretary under section 9002 shall be based upon the traditional or "nomination" process used by the Department of the Interior in other competitive bonus bid lease sales. In reviewing nominations and considering tracts of lands to be offered for leasing, the Secretary shall provide notice and engage in periodic consultations with the State of Alaska, the North Slope Borough, the Village of Kaktovik and other affected local governments in Alaska; oil and gas lessees; representatives of organizations engaged in activity in or on the coastal plain, including native people and others involved in subsistence uses and recreational activities; and owners of private lands in the area such as Arctic Slope Regional Corporation and Kaktovik Inupiat Corporation.

The Secretary must grant oil and gas leases on unleased Federal lands within the coastal plain to the highest responsible qualified bidder or bidders, by competitive bidding and under regulations promulgated in advance. This subsection further provides that regulations promulgated under section 9002 may allow for the deposit of cash bids in an interest-bearing account until the Secretary accepts the bids, with interest earned through such accounts paid to the General Treasury for bids that are accepted, and to the unsuccessful bidders for bids that are rejected.

Royalty payments under the Secretary's regulations and under the leases for the coastal plain shall be no less than the traditional 12½ percent used by the Department in most other Federal oil and gas lease sales. The committee expects that the Secretary will follow the traditional practice of 12½ percent rather than set a substantially higher royalty. The committee believes that a higher royalty would likely reduce the amount of the upfront competitive bonus bids, thereby reducing the projected $1.3 billion to the Federal Treasury from leasing. Further, higher royalties would tend to encourage bidding and development on only the best prospects, with the result that other prospects might not be fully explored and that "economically marginal" oil fields might not be placed in commercial production. Finally, the committee recognizes that high royalties can lead to premature abandonment of marginally economic fields that are nevertheless still producing oil. Such premature abandonment could mean the loss of important energy resources owned by the United States in the coastal plain. Because of the high costs of production and transportation on Alaska's North Slope, these economic factors are very important and the committee expects the Secretary to be guided accordingly in fashioning regulations which will assist and not burden investment in coastal plain oil and gas development, thereby depressing job creation and the other economic benefits that will be associated with developing the coastal plain's oil and gas resources.

The Nation's antitrust laws are, of course, fully applicable to the Secretary's regulations regarding activity on the coastal plain, as well as to the conduct of the lease sales under this section, and to the activities of bidders and lessees. This subsection assures that activities under section 9002 will be conducted in a competitive manner, in accordance with the antitrust laws, and with the benefit of any review the Attorney General and/or the Federal Trade Commission may determine is warranted.

The size of lease tracts in the coastal plain may be from 2,560 to 11,520 acres, as determined by the Secretary. The committee expects the Secretary to consider the following factors in determining the size of lease tracts: Maximizing revenue to the Treasury; maintaining vigorous competition; addressing the high cost of Arctic exploration and production; including appropriate fish, wildlife, and environmental considerations; considering the size and location of identified prospects; and providing incentives for independent oil and gas producers to participate in the lease sale. In this regard, this subsection provides that the Secretary may lease tracts smaller than 2,560 acres if the Secretary determines that this is necessary to ensure competition by attracting smaller independent oil companies, or to make available more leases in the areas believed to be exceptionally good prospects for oil and gas. Finally, the committee provides for smaller lease tracts where they are necessary to mitigate reasonably foreseeable adverse impacts on the environment. The committee anticipates, for example, that when the Secretary has designated a "special area" under subsection (g)(3) of section 9002, such action might require the leasing of adjacent tracts smaller than 2,560 acres to accommodate the geographic boundary of any "special area or areas."

Oil and gas leases shall be issued for an initial period of 10 years, and shall be extended for so long thereafter as oil and gas is produced in paying quantities from the lease or unit area to which the lease is committed, or for so long as drilling or reworking operations (as approved by the Secretary) are conducted on the lease or unit area.

The Secretary must include in the coastal plain leasing regulations as well as in the terms and conditions of the leases issued under section 9002 a number of matters that are customarily or routinely addressed in Federal oil and gas leases on public lands in Arctic Alaska. In granting this authority to the Secretary and to the Department's agencies that are experienced in conducting lease sales and in developing and administering the provisions of applicable regulations and leases, the committee expects the Secretary to rely on proven precedent and historic practice. By this, the committee expects the Secretary and the Department to follow precedent and prior practices that have protected the environment and public values, but have not burdened the economics of oil exploration and production, or led to a reduction in the number of potential leases or lessees because of burdensome or unreasonable regulations.

Lessees will be required to conduct their activities under leases issued under section 9002 pursuant to exploration and development plans that have been approved by the Secretary or the Secretary's designee. The committee expects that the regulations issued pursuant to this paragraph will address the form and the minimal content of such plans. The committee does not intend that this requirement be costly, burdensome, or lead to unnecessary delay. The purpose here is simply to assure that lessees understand, anticipate, and appropriately address any unique environmental, fish, and wildlife, or other conditions that may be associated with activities under their lease or leases before significant exploration or developmental activities are initiated.

The Secretary's regulations and lease terms must require the lessee to secure an appropriate performance bond to cover activities conducted under oil and gas leases on the coastal plain. The committee's intent here is to ensure that lessees are obligated to—and have the demonstrated financial capability to—fully comply with the requirements of section 9002, its implementing regulations and the terms and conditions of leases issued pursuant to this section. The committee intends that the form of the bond or financial commitment be secondary to the purpose of ensuring compliance by the lessee or the lessees' third party agents or contractors, and that no obligation or liability will be incurred by the United States. The requirement set forth in this paragraph should be implemented reasonably and in a manner that ensures against any continuing environmental damage or harm, follows traditional leasing practices, enhances competition, maximizes Federal revenue, protects the environment, and enables independent producers to both bid and operate successfully within the coastal plain.

The Secretary's regulations and terms of the leases shall include terms which will ensure that provision is made for suspension, cancellation, assignment, relinquishment, and unitization of leases. The committee again expects that the Secretary and the Department will follow traditional and customary Federal oil and gas lease practice in developing regulations and terms for leases that address and govern each of these subjects.

The Secretary's regulations and the terms of the leases shall include terms that will assure the Secretary reasonable access to information concerning activities under leases. This paragraph also assures that confidential, privileged, or proprietary information furnished by lessees to the Secretary under the regulations or the lease terms is adequately protected. The Secretary and the Department have a long history and ample experience dealing with this kind of information under oil and gas leases. The committee expects the Secretary to have access to all needed information and, at the same time, to see that the proprietary data and information of lessees is properly protected.

Subsection (e) provides that any complaint filed that seeks judicial review of an action of the Secretary in promulgating any regulation under this section may be filed only in the U.S. Court of Ap-

peals for the District of Columbia. This subsection further requires that such complaint shall be filed within 90 days from the date of promulgation of a regulation, or after such date if such complaint is based solely on grounds arising after 90 days, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint. Finally, this subsection states that any complaint seeking judicial review of any other actions of the Secretary under this section may be filed in any appropriate district court of the United States. Complaints seeking review of other actions must be filed within 90 days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after 90 days, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

Under subsection (f)(1), the prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2452; 16 U.S.C. 3143) are repealed. This includes prohibitions on the private lands of the Inupiat Eskimo people in the coastal plain and in the Arctic National Wildlife Refuge.

Under subsection (f)(2), section 9002 shall be considered the primary land management authorization for all activities associated with exploration, development, production, and transportation of oil and gas from the coastal plain. The committee intends that no land management review, determination, or other action shall be required for actions authorized and directed pursuant to section 9002 except as specifically authorized by this subsection.

Subsection (g)(1) provides that the Secretary shall promulgate such rules and regulations as are necessary to ensure that oil and gas exploration, development, production, and transportation activities undertaken in the coastal plain achieve reasonable protection of the fish and wildlife resources, environment and subsistence uses of the coastal plain before conducting a competitive oil and gas lease sale under section 9002.

Subsection (g)(2) directs the Secretary to administer the provisions of this section through regulations and lease terms that the Secretary determines to be necessary to mitigate reasonably foreseeable and significantly adverse effects on the fish and wildlife, surface resources and subsistence resources of the coastal plain.

Subsection (g)(3)(A) authorizes the Secretary, after consultation with the State of Alaska, the village of Kaktovik, AK, and the North Slope Borough, to close to leasing and designate up to 30,000 acres of the coastal plain as "Special Areas". The Secretary is authorized to close such areas only if the Secretary determines that these lands are of such unique character and interest so as to require special management and regulatory protection. Ninety days in advance of such a designation, however, the Secretary shall notify the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Further, this subparagraph states that the Secretary may, if appropriate, permit leasing of all or portions of any lands within the coastal plain designated as Special Areas by setting lease terms that limit or condition surface use and occupancy by lessees of such

lands, but which will permit the use of horizontal drilling technology from sites on leases or lands located outside the designated Special Areas.

Subsection (g)(3)(B) provides that, notwithstanding any other provision of law or any international agreement to which the United States is a party, the Secretary's sole authority to close lands within the coastal plain to oil and gas leasing and to exploration, development, and production as provided for in this part is set forth in subparagraph (A) of this subsection.

Subsection (g)(4) requires the Secretary to develop guidelines to encourage the sitting of facilities having common use characteristics (service bases, ports and docks, airports, major pipelines, and roads) in a manner that leads to facility consolidation, avoids unnecessary duplication, utilizes existing facilities, minimizes impacts on fish, wildlife, habitat and the subsistence activities of residents of Native communities, and avoids disruption of the lives of the residents of the village of Kaktovik and other communities. This subsection further requires that the Secretary develop these guidelines in consultation with the State of Alaska and the North Slope Borough.

Subsection (g)(5) provides that, notwithstanding title XI of the Alaska National Interest Lands Conservation Act of 1980, the Secretary is authorized and directed to grant, under section 28 of the Mineral Leasing Act (30 U.S.C. 185), all necessary permits, authorizations, rights-of-way and easements across the coastal plain for the purposes of section 9002, as well as for pipeline construction and the transportation of oil and gas and related purposes.

Subsection (g)(6) authorizes the Secretary to close, on a seasonal basis, portions of the coastal plain to exploratory drilling activities as necessary to protect caribou calving areas, and to protect other species of fish and wildlife for limited periods of time as been done in connection with oil and gas activities on other areas of the North Slope.

Subsection (h) sets forth a determination that the "Final Legislative Environmental Impact Statement" (April 1987) prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 and section 102(2)(C) of the National Environmental Policy Act of 1969 is adequate and legally sufficient for all actions authorized pursuant to section 9002. The committee intends that this determination should include all phases of oil and gas leasing, exploration, development, production, transportation and related activities, including the granting of right-of-way, use permits and other authorizations.

Subsection (i) directs that all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest or other income derived from the leasing of oil and gas resources within the coastal plain shall be deposited into the Treasury of the United States, notwithstanding any other provision of law. This subsection further requires that 50 percent of all such coastal plain revenues deposited pursuant to this subsection shall be paid to the State of Alaska by the Secretary of the Treasury semiannually, on March 30 and on September 30 of each year.

This subsection also requires the Secretary to prepare and submit an annual report to the Congress on the revenues derived and

on the leasing program authorized by this section on March 1 of each year following the date of enactment of section 9002.

Subsection (j) authorizes and directs the Secretary to convey to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation entitlement under section 12 of the Alaska Native Claims Settlement Act, as well as to convey to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the April 9, 1993, Agreement between the Arctic Slope Regional Corporation and the United States of America. These conveyances shall occur notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act.

Subsection (k) provides that any person (including any Federal official) who fails to comply with any provision or mandate of section 9002, a lease term, or regulation promulgated under section 9002, shall be liable after notice of such failure expiration of a reasonable period for corrective action, and after a hearing for a civil penalty of not more than $10,000 for each day of the continuation of such failure.

The committee fully expects the administration and Secretary Babbitt to implement, in good faith and in a positive manner, this committee's policy decision on the future of the coastal plain's energy resources. Finally, the committee regrets that the administration did not seek to join in a debate on how coastal plain revenues over and above the budget resolution deficit targets and instructions could have been directed a important areas of need in the Nation's environment, natural resource and preservation programs. That opportunity for consultation has passed for now, but the committee stands prepared to revisit the issue in the future. Meanwhile, the committee has adopted as resource endowment approach that addresses fish, wildlife and habitat acquisition needs in subsection 9002(n).

Sec. 9003. Alaska Power Administration sale

Subsection (a) defines terms for the purposes of this section.

Subsection (b) authorizes and directs the Secretary of Energy to sell and transfer the Snettisham and Eklutna assets and directs other Federal agencies to cooperate with the Secretary of Energy in implementing the sales. The subsection authorizes to be appropriated such sums as may be necessary to prepare the assets for sale, and allows the APA to accept contributed funds for the purchasers for upgrading, improving, maintaining, or administering Snettisham or Eklutna.

Subsection (c) stipulates that the U.S. District Court for the District of Alaska shall have jurisdiction over decisions made under the Memorandum of Agreement [MOA] entered into between the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority and Federal fish and wildlife agencies regarding the protection, mitigation of damages to, and enhancement of fish and wildlife. The subsection further states that any action seeking review of the fish and wildlife program under the MOA must be brought within 90 days or be barred.

Subsection (c) also provides that the Secretary of Interior shall issue rights-of-ways to APA for subsequent use by the purchasers and to provide future access to Federal lands in the event the assets are ever resold, stipulates that the Secretary of Interior can convey certain lands associated with the projects to the State of Alaska under section 6 of the Alaska Statehood Act, and stipulates that the sale is not considered a disposal of assets under the provisions of section 203 of the Federal Property and Administration Services Act of 1949.

Subsection (d) stipulates that following the sale and transfer of assets, the APA shall cease to exist and that all proceeds from the sale of the assets shall be credited to miscellaneous receipts in the Treasury.

Part 2—Helium Privatization

Sec. 9011. Short title

This section provides the short title of this part, the Helium Privatation Act of 1995.

Sec. 9012. Amendment of Helium Act

This section provides that unless otherwise noted, this bill amends the 1960 Helium Act.

Sec. 9013. Authority of Secretary

This section amends sections 3, 4, and 5 of the 1960 act as follows:

New section 3(a) would authorize the Secretary of the Interior to enter into contracts with private parties to recover and dispose of helium on Federal lands.

New section 3(b) would authorize the Secretary to store, transport, and sell helium only in accordance with the bill.

New section 3(c) would authorize the Secretary to monitor helium production and helium reserves in the United States and to periodically prepare reports on the above and on the quantity of crude helium in storage in the United States.

New section 4(a) would authorize the Secretary to store and transport crude helium and to maintain and operate crude helium and to maintain and operate crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

New section 4(b) would require the Secretary to cease producing, refining, and marketing refined helium within 18 months after enactment of this bill.

New section 4(c) would require the Secretary to dispose of all facilities, equipment, and other real and personal property held for the refining, producing, and marketing of refined helium within 2 years after the Secretary ceases production, refining, and marketing operations. All proceeds from the sale of such facilities shall be applied against the outstanding helium fund debt. All costs associated with the sale and disposal, including costs associated with termination of personnel, shall be paid from the helium production fund.

New section 4(d) provides that any contract for refined helium in effect on the date of enactment of this bill would stay in effect until the facilities listed in the previous section are sold. This section also provides for any costs associated with termination of such contracts. Funds for such costs shall be drawn from the helium production fund.

New section 5 provides for full cost recovery for helium storage, withdrawal, or transportation services provided by the Secretary.

Sec. 9014. Sale of crude helium

This section provides for the sale of crude helium. It amends section 6 of the 1960 act to require that those individuals who enter into contracts with Federal agencies to provide helium also purchase an equivalent amount from the Secretary. The Secretary is precluded from making sales of crude helium in amounts that would disrupt the market.

All funds collected pursuant to this section shall be deposited against the helium debt, which shall be frozen at the amount outstanding on October 1, 1995. The minimum price of crude helium sold by the Secretary would be determined on the basis of the outstanding amount owed against the debt in comparison with the volume of crude helium in the Cliffside Reservoir.

Subsection (d) would be amended to require that all funds received from the sale or disposition of helium produced under a Federal lease be deposited against the debt.

Subsection (e) would be repealed

Subsection (f) would be amended to provide that all funds generated from disposal of facilities and sales would be deposited in the helium fund to be paid against the debt, and that such fund's balance would not be greater than $2 million per year. Once the debt is repaid, the fund would be terminated.

Sec. 9015. Elimination of stockpile

This section would amend section 8 of the Helium Act as follows:

Subsection (a) would require the Secretary to annually review the known helium reserves in the United States and determine the expected life of said reserves.

Subsection (b) would require the Secretary, no later than 2005, commence making sales of the crude helium in the Cliffside Reservoir, and dispose of all such reserves by 2015, except for 600 million cubic feet. Such sales must be made in consultation with the helium industry to provide for minimum market disruption. This subsection ensures repayment of the debt.

Subsection (c) provides that discovery of additional reserves shall not affect the duty of the Secretary to sell the crude helium in the reservoir.

Sec. 9016. Repeal of authority to borrow

This section repeals section 12 and 15 of the Helium Act.

Sec. 9017. Reports

This section amends section 16 of the Helium Act by adding a description and requirement for fiscal reporting by the inspector general of the Department of the Interior. This financial statement

shall include: a balance sheet for the helium operations, the statement of operations, a statement of cash flows, and a reconciliation of budget reports.

Sec. 9018. Land conveyance in Potter County, TX

This section directs the Secretary of the Interior to transfer a parcel of land to the Texas Plains Girl Scout Council for consideration of $1 reserving the right for pipeline rights-of-way easements. The section includes a description of the parcel of land in Potter County, TX.

SUBTITLE B—WATER AND POWER

Part 1—Power Marketing Administrations

Sec. 9201. Short title

This section provides the short title for this part, the Power Administration Act.

Sec. 9202. Sale of Southeastern Power Administration

Under section 9202, the Secretary of Energy is authorized to sell the Southeastern Power Administration [SEPA] and the facilities used to generate the electric power marketed by SEPA.

The SEPA facilities to be sold under this proposal include both the generation facilities and the related dams and rights-of-way and structures. While the SEPA-related dam projects are multipurpose projects providing services in addition to power, such as navigation, flood control, and irrigation, there is no reason to doubt that private utilities, current municipal or cooperatively owned customers, or other non-Federal parties could perform these functions. In fact, both private and public entities are currently licensed by the Federal Energy Regulatory Commission [FERC] to operate 2,148 hydroelectric projects. Those projects are licensed and regulated to ensure the comprehensive development of a particular waterway consistent with national environmental, navigational and safety goals. Private and public utilities that obtain the right to manage the SEPA-related Federal dams would have to operate the assets consistent with existing Federal operating plans. In addition, they would comply with existing regulatory authority that would otherwise govern such facilities in the hands of non-Federal parties (e.g., Army Corps of Engineers regulations over navigation, and any other applicable State and Federal laws). Moreover, a purchaser would be required to assume responsibility for all contracts, marketing agreements and obligations held or owned by SEPA or other Federal agencies currently holding rights or obligations in facilities which are the subject of the transfer under this part.

Subsection (a) requires the Secretary of Energy to sell SEPA and the facilities used to generate the electric power marketed by SEPA. The subsection sets up a process for the sale of the assets in a manner that will assure that the SEPA-related facilities are transferred in a manner that provides reasonable payment to the United States. The Secretary's discretion to award the purchase of a facility is limited by four conditions: First, The purchaser must be financially qualified and have the experience and resources necessary to operate the projects as transferred; second, the purchaser

must offer a bid package that upon evaluation yields the highest total value to the Federal Government; third, the purchaser must pay at least the net present value of the outstanding debt attributable to the facility or group of facilities; and fourth, the purchaser must agree to accept the existing rights and obligations while maintaining existing operating criteria. The subsection also specifies that the sales are subject to existing storage rights in the reservoirs that are to be sold. Local interests which have those rights will not be required to enter into additional contracts to continue utilizing those rights. During the course of the transfers it may be appropriate for the parties to existing contracts to enter into assignment agreements to document the transfers.

Under subsection (b), the Secretary is authorized to request the assistance of any affected Federal department or agency in implementing the sale of the SEPA-related facilities. Relevant agencies are also required, at the appropriate time, to transfer the facilities to the Secretary for purposes of completing the sale to the highest bidder.

Subsection (c)(1) authorizes the Secretary to hire an impartial advisor to assist in the sale process.

To help ensure the marketability of the SEPA-related assets, subsection (c)(2) requires the Secretary to publish a notice in the Federal Register requesting that all parties with operational or ownership interests in SEPA facilities provide evidence of that interest within 90 days of publication of the notice.

Under subsection (c)(3) the advisor is required to provide, among other things, a report that outlines specific plans for conducting a competitive bid solicitation. The advisor is required to provide the Secretary with a 50-year projection of the net present value of the income and expenses associated with each facility. The financial advisor also may recommend appropriate groupings of SEPA-related assets for purposes of soliciting bids on one or more projects. SEPA is currently divided into four separate power systems, which may provide the basis for four separate bids. Alternatively, the advisor may recommend instead that the Secretary sell the SEPA assets based upon grouping assets that are situated along a single river basin (e.g., the Savannah River basin).

Subsection (d) authorizes the Secretary to spend up to $6 million from unobligated balances to fund the various SEPA sales and PMA studies. The Secretary is to provide an accounting of the costs of the effort to the Committee on Resources in the House and the Committee on Energy and Natural Resources in the Senate. The net proceeds from sales of facilities are to be used, in part, to repay this $6 million. All remaining proceeds are to be used to extinguish the outstanding debt attributable to the sold facility or group of facilities. After satisfying those repayment obligations, any remaining proceeds are to be deposited in the Treasury of the United States as miscellaneous receipts.

Subsection (e) (1) and (2) provides that the sales of these assets are not be to considered disposals of Federal surplus property under the Federal Property and Administrative Services Act or the Surplus Property Act of 1944.

To meet the reasonable expectations of current preference customers and others affected by the operation of these facilities, sub-

section (f) provides that the purchaser of each SEPA facility is required to assume all liabilities and obligations of the United States under all contracts or other agreements that concern SEPA. The act does not interfere with the existing contracts and marketing agreements established by SEPA at the time of the sale. To avoid the possibility of action being taken by SEPA during the period between enactment of the legislation and the sale that would decrease the value of the sale, SEPA is directed not to enter into any long-term agreements prior to the sale.

To ensure the marketability of the SEPA-related assets, the Federal Government is required to conclude existing lawsuits associated with the assets being sold. The Federal Government also will remain responsible for any outstanding Indian trust responsibilities unless the transfer in question specifically identifies the obligation being transferred.

Under subsection (g), by June 30, 1997, the Secretary is required to provide to FERC a description of all the assets to be sold, the existing terms of operation at the facilities to be sold, any other interest being proposed for sale, and other information relating to the hydroelectric projects. All of this information will help FERC determine, for purposes of FERC regulation, the "existing terms of operation" at SEPA-related dams.

Subsection (h) requires the Secretary to publish a Federal Register notice by March 31, 1998, listing a description of all the assets to be sold, the terms of the proposed FERC license, the existing terms of operation at the facilities to be sold, and any other interests being proposed for sale as well as providing the date, time and conditions to be met for the successful bid.

Subsection (i) requires that the Secretary conclude all sales not earlier than July 1, 1999, and not later than September 30, 1999.

Subsection (j) provides that after the sale of all the power generating facilities and related properties, the Secretary must complete the business of and close out SEPA. The Secretary is instructed to return any unexpended balance of funds appropriated for SEPA to the Treasury of the United States. To the extent practical and consistent with good business practices, the former employees of SEPA may be offered employment by the purchasers of SEPA-related facilities.

Sec. 9203. The Federal Energy Regulatory Commission jurisdiction

Subsection (a) of section 9203 creates a system in which certain preference power customers will be protected from rate increases as the result of the sale of SEPA facilities. The subsection applies part 2 of the Federal Power Act to all rates and charges established for the wholesale sale of electric power and for transmission access for facilities sold under section 9202. This subsection will take effect after the expiration of any existing contract. In regulating the rates and charges for the sale of electricity from the transferred facilities, the FERC must determine whether any rate increase is attributable to the sale of the facility. FERC must then disallow any rate increase attributable to the sale that is more than one half of the increase in the consumer price index for that region (as measured from the rates and charges in effect on the date of the sale of the facility). The rate provisions in subsection (a) apply to all wholesale

purchasers who received at least 20 percent of their power from SEPA in the year before this part is enacted.

This subsection requires FERC to provide to the Secretary, prior to January 1, 1998, a proposed license for each Federal hydroelectric project sold under section 9202. It also sets a September 30, 1999, deadline for FERC to issue such license to the purchaser of the facility. The subsection further provides that the license, which is considered a license under part 1 of the Federal Power Act, shall be for a term of 30 years.

Under subsection (b), the responsibility for regulation of transferred hydroelectric projects is immediately transferred to FERC. This immediate transfer of regulatory authority prevents any possible gaps in regulation.

Subsection (b)(1) provides that the license issued by FERC shall be for the project purposes established by the existing terms of operation and in form mirrors the proposed license published as part of the bid package for the sale of the assets. By requiring FERC to include these existing terms of operations in the license, this part will ensure that the project's historical operations are continued throughout the 30 year license term.

Subsection (b)(2) requires that the licensed project be operated in accordance with the "existing terms of operations" as provided above, except that the licensee may, without obtaining a license amendment from FERC, make improvements at the project that increase energy capacity, provided that the change does not affect the project's existing minimum flow.

Subsection (b)(3) requires that the license be subject to FERC's "L-Form" articles, which are standard articles included in virtually every license issued by FERC. This subsection also prevents the license from being "reopened" during the first 10 years of the license term. This limitation will provide assurances to the licensee and investors that excessive changes will not be made in project operations or project works immediately following license issuance.

Subsection (b)(4) provides that the licensee has a 10-year period in which to make any changes that may be necessary to modify the facilities to meet FERC's dam safety regulations. During the first 10 years of the license term, the licensee must maintain at least the existing safety of dams standards as it transitions the facility to FERC standards.

Subsection (b)(5) expressly exempts FERC's initial license issuance from various sections of the Federal Power Act, including but not limited to, the rights of Indian tribes and Federal land management agencies to impose mandatory conditions on licenses; the right of the Corps of Engineers to approve structures affecting navigation; FERC's obligation to conduct a navigation study of the project; and FERC's obligation to balance the project's power and nonpower benefits. The purpose of these exemptions is to reflect that these are Federal facilities with existing obligations which will be maintained.

Subsection (b)(6) provides valuable protection for the environment by ensuring that the project's current minimum flow restrictions will be met throughout the license term.

Subsection (c) expressly exempts the initial license issuance from the various other Federal statutes, since the transfer is designated

to provide certainty and maintain existing contracts and operational requirements. The operation, as contrasted from the issuance, would be subject to applicable Federal and State regulations.

Subsection (d)(1) provides that a license issued by FERC under this section shall be deemed to meet the Federal Power Act's licensing standards.

Subsection (d)(2) provides that once a transferred project receives its license, the project owner is not required to obtain permits, authorizations or approvals from any other agency with respect to project operations. This provision reaffirms the principle that FERC has the sole and exclusive licensing authority for non-Federal hydropower.

Subsection (e) provides that any lands whether federally or privately owned that are included within the final project boundaries of the transferred hydroelectric project, shall upon the issuance of a license for such a project, be free of any power site reservation restrictions, whether the reservations were established by the President, the Department of the Interior or pursuant to section 24 of the Federal Power Act (16 U.S.C. 818).

The subsection provides that at the expiration of the license issued by FERC for a transferred project, the project shall be subject to all provisions of part 1 of the Federal Power Act for purposes of relicensing. In other words, at relicensing, the project is subject to FERC's comprehensive licensing scheme without any waivers and exemptions.

Subsection (g) enumerates several terms for definitions for the purposes of this section.

Sec. 9204. Evaluation of sales of Southwestern Power Administration and Western Area Power Administration facilities

Section (a) repeals section 505 of the Energy and Water Development Appropriations Act of 1993 (Public Law 102–377) enabling the Secretary of Energy or other Federal entities to initiate the Federal studies that are the subject of this section.

The Secretary of Energy and the Secretary of the Interior are authorized by subsection (b) to enter into an arrangement with an experienced private sector firm to serve as an advisor for the purpose of evaluating the sale of the facilities related to the electric generating and transmitting facilities of Southwestern Power Administration [SWPA] and Western Area Power Administration [WAPA].

The committee expects that the Department will conduct a full and fair competition in the selection of a financial advisor to perform the study of WAPA. The committee believes that it is essential that the financial advisor have experience or expertise in the areas of electric utility restructuring, electric utility mergers and acquisitions, privatization of government assets, and knowledge of both the publicly owned and the investor-owned utility industry. The advisor should also have sufficient expertise in the nonelectrical aspects of the study to be able to appropriately incorporate such data. The committee expects that the Department publish for review and comment a draft scope of work for the study as well as the proposed qualification and evaluation criteria to be applied in the selection of the financial advisor, prior to issuing a formal request for proposals.

The advisor must provide, before December 31, 1966, a report identifying all recipients of water and power from these facilities. The advisor also will identify all contracts, debt obligations, equity interests, and binding agreements as well as all tangible and intangible assets of SWPA and WAPA.

In the report, the advisor is instructed to address the applicable requirements relating to environmental mitigation and Indian trust responsibilities, and land ownership or use rights relevant to the proposed transfers that could terminate based on a transfer out of Federal ownership. Navigational requirements, which affect the operation of such facilities are also to be addressed.

With respect to the evaluation of SWPA and WAPA, the advisor is directed to consider the tax consequences, and the revenue impacts of those consequences, that would flow from the sale of the facilities to various potential public and private transferees. The advisor is directed to provide sales groupings based on river systems or projects unless a more attractive alternative can be found.

In conducting such an evaluation the Secretaries and the advisor should recognize that many of the dams and reservoirs used to generate the electric power marketed by SWPA and WAPA are first and foremost water supply and flood control projects. In general, power generation is incidental to these primary purposes. It is the intent of the committee that such facilities will continue to be operated in a manner consistent with their current, primary purposes and the evaluation directed by this section shall not assume any changes in the current operation of the facilities.

Further, it is the intent of the committee that the evaluation recognize that power generated by such facilities is often intended by the authorizing legislation to first be used to accomplish the project uses (which uses may increase or decrease in the future) and secondarily for the surplus power to be sold. The evaluation required by this section shall in no way assume an alteration, diminution, or impairment in the priority purposes for which these projects were constructed or to assume any reduction in the commitment of project power to project uses. Such evaluation shall assume that all facilities used in whole or in part for the storage or delivery of water will continue to be used for such. The evaluation should take into account that the water portion of many of these projects are based on statutes which contemplate the transfer of those facilities to the water users upon completion of their repayment obligation.

The study should recognize that water users in some project areas may wish to acquire the water storage and delivery portion of these facilities either independent of or in cooperation with other parties. It is contemplated by the committee that not all of the assets under evaluation will be authorized for sale at the same time and that some assets may be authorized for sale prior to the completion of the report. The evaluation should assume that those portions of the facilities used in whole or in part for the storage or delivery of water will not be sold to prospective buyers of SWPA or WAPA facilities without the consent of the water beneficiaries entitled to purchase them and that such facilities will continue to be owned by the Federal Government or its successor(s). It is the committee's intent that nothing in the evaluation or implementation of this part should be construed as limiting or discouraging the trans-

fer of any water storage and delivery facilities independent of this evaluation or during the preparation of this evaluation.

It is the intent of the committee in adopting the final sentence of section 9204, "Asset groupings shall specifically be designed to effectuate the maximum return for all of the assets" to provide guidance to the Secretaries to look at groupings that will encourage transfer of all facilities and to discourage the transfer of merely the most financially attractive ones. It was not the intent of the committee to authorize the Secretaries to evaluate or propose transfer criteria for the water storage and delivery portions of the facilities at prices exceeding that already identified in existing law. Nothing in this section is intended to either authorize or direct the Secretaries of Energy or Interior to study, evaluate or estimate the value for sale of any asset or portion of facility used in whole or in part for the delivery of water. The focus of the evaluation is to identify existing uses, proper groupings and transfer alternatives rather than to establish values for the facilities or to conduct appraisals of the assets.

The protection of individual water rights is of paramount importance. Any evaluation of existing uses or proper groupings of facilities used in whole or in part for the storage and delivery of water should ensure that these delicate water allocations are not altered by any future transfer.

In developing the scope of work for the advisor and supervising the report of the advisor, it is expected that each Secretary shall ensure that the issues within their respective areas of jurisdiction are addressed. It is the intent of the committee that the Secretary of Interior is primarily responsible for working with the advisor on those aspects of the report that relate to the use of any asset in whole or in part for the storage and delivery of water.

The committee understands that there are several differences between the Power Marketing Administrations. For example, in the West, in many projects power users are required to repay a significant portion of the capital costs of irrigation under a program known as Aid to Irrigation. The WAPA system is also more complex by virtue of its size and geographic diversity.

The transmission systems owned by SWPA and WAPA are integrated with facilities and distribution lines built by customers. To be effectively privatized, it may be appropriate to transfer these facilities separate from the generation facilities. Recommendations for asset sales should be structured to ensure continued access by customers to those transmission systems.

The committee expects the evaluation to address the issue of transmission access, and options for how the PMA transmission system could be operated under various restructuring proposals. This would include the open transmission access issues that are currently under consideration by FERC, and also the feasibility of operating the PMA transmission system as a regional transmission pool.

In investigating alternative groupings of the PMA facilities for purposes of sale, the advisor should consider the potential contribution of the PMA's, and of their facilities, to one or more State or regional power pools, and should consider groupings of PMA facili-

ties for sale in a manner that could support the formation of efficient State or regional power pooling arrangements.

Sec. 9205. Bonneville Power Administration Appropriations Refinancing

Subsection (a) defines the various terms used in the section, including:

Paragraph (2) clarifies the repayment obligations to be affected under this subtitle by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility or separable unit or feature of a project or facility, provided that the investment is one for which the Administrator of the Bonneville Power Administration [BPA] is required by law to establish rates to repay to the U.S. Treasury. Excluded from the definition are Federal irrigation investments required by law to be repaid by the Administrator, and investments financed by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

Paragraph (4) defines those capital investments whose principal amounts are reset by the section. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility or separable unit or feature was placed in service before October 1, 1995.

Paragraph (5) defines the term "repayment date" to mean the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment.

Paragraph (6) defines the term "Treasury rate." The term is used to establish both the discount rates for determining the present value of the old capital investments and the interest rate that will apply to the new principal amounts of the old capital investments.

Subsection (b) establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the Federal Columbia River Power System) by: (a) Calculating the present value of the stream of principal and interest payments on the investment that the Administrator would have paid to the U.S. Treasury absent this section; and (b) adding to the principal of each investment a pro rata portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1995, the actual calculation of the reset principal will not occur until after October 1, 1995, because the discount rate will not be determined, and BPA's final audited financial statements will not become available, until later in that fiscal year.

Subsection (b)(2) provides that with the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under

subsection (b) and the assignment of interest rates to the new principal amounts under subsection (c).

Subsection (c) provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for the old capital investment, as determined by the Secretary of the Treasury under subsection (a)(6). The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the repayment date for the investment.

Subsection (d) provides that the end of the repayment period for each new principal amount established for an old capital investment shall be no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A). Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. This subsection confirms that the Administrator retains this obligation notwithstanding the enactment of this section.

Subsection (e) places a cap on the Administrator's authority to repay the new principal amounts of old capital investments. During the period October 1, 1995, through September 30, 2000, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100 million.

Subsection (f) establishes in statute a key element of the repayment practices relating to new capital investments. The subsection provides the interest rates for determining the interest during construction of these facilities. The subsection further provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator's obligation with respect to the payment of this interest arises when construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

Subsection (g) establishes an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for new capital investments. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, this subsection provides that the interest rate assigned to capital investments made in a project, facility or separable unit or feature of a project or facility, provided it is placed in service after September 30, 1995, is a rate that more accurately reflects the repayment period for the capital investment and interest rates at the time the related facility is placed in service. The interest rate applicable to these capital investments is the Treasury rate, as defined in subsection (a)(6)(B). Each of these investments would bear interest at the rate so assigned until the earlier of the date it is repaid or the end of its repayment period.

Subsection (h) provides specific credits against amounts otherwise payable by the Administrator to the U.S. Treasury for a portion of the funds the Administrator is obligated to pay the Confed-

erated Tribes of the Colville Reservation so long as Grand Coulee Dam produces electric power.

Subsection (i) is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. The subsection requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other than the interest payments or principal repayment authorized by this section.

Subsection (i)(1) also provides assurance to ratepayers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered.

Whereas subsection (i)(1) limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, subsection (i)(2) requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. It also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to subsection (c) of this section.

Subsection (i)(3) is intended to assure BPA ratepayers that the contract provisions described in subsections (i)(1) and (i)(2) are not indirectly circumvented by requiring BPA ratepayers to bear through BPA rates the cost of a judgment or settlement for breach of contract provisions. This subsection confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by this section.

Subsection (i)(4)(a) establishes that the contract protections required by the section to not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Subsection (i)(4)(B) clarifies that the contract terms described in this subsection are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other costs or allocate costs and benefits.

Paragraph (1) of subsection (j) assures that the principal and interest payments by the Administrator as established in this section shall be paid only from the Administrator's new proceeds.

Subsection (j)(2) confirms that the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period, except as limited by subsection (e) of this section.

Subsection (k)(1) states that the Administrator shall undertake a study to determine the effect that increases in the rates for electric power sales made by the Administrator may have on the customer base of the BPA.

Subsection (k)(2) states that the Administrator shall undertake a study to determine the total prior costs and the anticipated fu-

ture costs to BPA for compliance with the provisions of the Endangered Species Act.

Subsection (k)(3) requires the Administrator to submit the results of these studies to the Congress within 180 days of enactment.

Part 2—Reclamation

Sec. 9211. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District

This section amends section 210 of the Central Utah Project Completion Act to extend the preexisting authority of the Secretary of the Interior to accept prepayment from the Central Utah Water Conservancy District for municipal and industrial repayment contracts entered into on December 28, 1965, and supplemented on November 26, 1985. The section provides that prepayment be allowed on the same terms and conditions that were negotiated in the Jordan Aqueduct Prepayment Agreement, dated October 28, 1993. It stipulates the district shall exercise its right to repayment under this section by the end of fiscal year 2002. This section does nothing with respect to title to the water project features for which prepayment is made. Title will remain in the name of the United States.

Sec. 9212. Treatment of city of Folsom as a Central Valley Project contractor

The purpose of section 9212 is to deem that, for the purposes of being considered eligible to be a transferee of Central Valley Project water to be used for municipal and industrial purposes, the city of Folsom, CA, shall be treated as a Central Valley Project contractor as of November 1, 1990.

Sec. 9213. Sly Park

Section 9213 provides for the sale and conveyance by the Secretary of the Interior of the Sly Park Unit of the Central Valley Project to the El Dorado Irrigation District, Placerville, El Dorado County, CA. This section directs the Secretary, within 1 year of enactment, to sell and convey the facilities, and to transfer and assign the water rights relating to the unit which are held in trust by the Secretary, to the El Dorado Irrigation District.

The sale price shall not exceed the construction costs, plus interest, minus all revenues collected under the terms of the contract between the United States and the El Dorado Irrigation District. Payment of the purchase price is to be made on terms not to exceed 20 years. However, transfer of title to the facilities will occur upon the signing of an agreement to carry out the sale. The section further stipulates that since only the ownership, not the operation, of the facilities to expected to change, the sale of these facilities does not constitute a major Federal action subject to environmental review pursuant to the National Environmental Policy Act or require a section 7 consultation under the Endangered Species Act.

Sec. 9214. Hetch Hetchy Dam

Section 9214 would increase from $30,000 to $8 million the annual payment made by the city of San Francisco under the provisions of the Raker Act (act of December 13, 1913) for having the Hetch Hetchy system within Yosemite National Park.

The section further stipulates that these receipts shall be placed in a separate fund by the United States. The fund would be subject to further appropriations, but the highest priority for use of the funds is for the annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in California.

SUBTITLE C—NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

Part 1—Concession Reform

Sec. 9301. Short title

This section provides the short title of the part, the Visitor Facilities and Services Enhancement Act of 1995.

Sec. 9302. Purpose

This section outlines the purposes of the bill. The committee intends for Federal lands to be used and enjoyed by the recreating public. However, the committee recognizes that Federal funding is inadequate to ensure development of necessary public facilities to provide for public use, as well as the fact that there are many visitor-related functions on Federal lands which should be performed by the private sector. This legislation is designed to encourage private sector participation in providing for public use of Federal lands.

The committee is concerned about the inconsistent and inefficient process for administering concessions adopted by each of the six different Federal agencies covered under this legislation: The National Park Service, Forest Service, Bureau of Land Management, Bureau of Reclamation, Corps of Engineers, and Fish and Wildlife Service. There is no justification for these policy differences which often result in increased costs for the concessions, decreased competition for concession opportunities, reduced revenue to the Government and ultimately a decreased level of service to the public. However, the bill only addresses the administrative aspect of the concession program and has no impact on the underlying agency mission with regard to concession operations. The various agencies covered under this bill will still utilize their unique planning processes to determine the location and nature of any concession opportunities to be offered.

Sec. 9303. Definitions

This section defines the terms used in the legislation.

Sec. 9304. Nature and types of concession authorizations

This section identifies the two types of concession authorizations which would be established under the legislation—a concession service agreement and a concession license. The basic difference between the two types of authorizations relates to whether the Sec-

retary determines it necessary to limit the number of concessioners and to undertake a competitive process to select the concessioner. A concession license would be issued whenever the Secretary determines there is no need to limit the number of concessions. A concession service agreement would be issued whenever the Secretary determines there is a need to limit the number of concessions through competitive process.

This part does authorize the noncompetitive award of concession service agreements under special circumstances. For example, if the Secretary acquires an existing business under his land acquisition program, the Secretary may determine that continuation of that business is in the public interest. The committee expects that this authority will be used on extremely rare occasions.

This part provides for the issuance of a lease wherever the concessioner develops or uses fixed facilities on Federal lands. The committee adopted this approach since a lease is a commonly understood term and the committee anticipates such leasehold interest will be helpful in securing financing for necessary capital improvements.

Concession licenses would be issued whenever the Secretaries determine that there is no need to limit the number of concessioners. The committee has included language directing the Secretaries to consider issuing concession licenses whenever such services would improve public enjoyment of Federal lands. Similarly, language has been included directing the Secretaries to monitor concession licenses to determine if the activities are of such a nature that a concession service agreement would be a more appropriate authorization.

Section (b) provides that this legislation would not apply to recreation areas leased to other political subdivisions. This language would apply primarily to areas administered by the Corps of Engineers and Bureau of Reclamation which have both entered into a number of leases for properties under their jurisdiction.

Sec. 9305. Competitive selection process for concession service agreements

This section outlines the competitive selection process to be used for concession service agreements. The purpose of this selection process is to ensure that the Federal Government selects the best concessioner to provide visitor services to the public.

Subsection (c) outlines the factors which the Secretaries shall consider in selecting the best proposal. In addition to the factors listed, the Secretaries may consider other factors of importance to a particular concession service agreement. The committee believes that experience of the concessioner is a critical factor in the selection process and has therefore established that experience shall be a minimum of 20 percent of the total selection criteria. Further, the committee expects that where the Secretaries determine it to be warranted, this factor will take on greater importance. The committee has included a number of aspects of the experience factors which would warrant this greater weight, including size or scope of the operation, nature of technical skills required and site specific knowledge of the area. In this context, size or scope of the operation considers such issues as numbers of employees, number of

visitors served and numbers and types of buildings included in the concession operation. The nature of technical skills refers to such activities as rock climbing, livestock packing, and winter camping, as well as concession operations which depict the traditional activities or heritage of the area. Site-specific knowledge of the area is important for such concession activities as whitewater rafting and outfitter services, and in particular for concessioners who serve as hunting guides. This part provides that the length of such qualifying experience will be a key in determining the score of any proposal submitted to the Secretaries. The committee has not assigned any particular weight of other factors in an attempt to permit the Secretaries maximum flexibility in designing the selection process. The committee expects that the Secretaries will set reasonable minimum requirements for each of the factors to encourage competition in the selection process.

Subsection (d) authorizes the Secretaries to provide for reissuance and temporary extensions of concession authorizations without further review under the National Environmental Policy Act [NEPA]. The committee has found that NEPA has been inconsistently applied within and among the agencies covered under this bill. Since continuation of existing activities results in no charge in the nature of impacts on the human environment, the committee finds that further NEPA review is unnecessary.

Subsection (e) permits the Secretaries to modify an existing concession service agreement to provide for other public services not envisioned at the time the original concession service agreement was adopted. Such minor changes to an existing concession service agreement will reduce administrative costs associated with issuing a new prospectus and ensure that public services are made available more quickly.

Sec. 9306. Concessioner evaluations

This section outlines establishment of a program for concession evaluations. The committee believes that evaluations are a critical element of the overall concession program. Information supplied to the committee indicates that existing evaluation programs often focus on minor technical issues, and may not accurately reflect the overall performance of the concessioners. The bill provides for development of an evaluation program based on broad public input. The committee encourages the Secretaries to consult closely with the hospitality industry in developing this program.

Subsection (b) provides that the Secretaries shall develop an annual evaluation based on at least two reviews of the concession operation per year. The legislation provides for concessioners to be notified in advance regarding such evaluations and to be provided copies of the evaluation program prior to the initiation of the evaluation period. If a Secretary determines that the performance of the concessioner is unsatisfactory, he shall notify the concessioner in writing and outline the steps necessary for the concessioner to achieve a satisfactory level of performance.

Subsection (c) outlines the incentives which are provided to the concessioner for good performance. The concessioner can earn two types of incentives for good performance. First, those operators who consistently perform above the level specified in the contract pro-

spectus would be entitled to an automatic 3 year contract extension at the end of their contract. Second, concessioners would be entitled to a performance incentive of 1 percent of the maximum points to be awarded in renewal of their concession service agreement for each year in which their performance exceeds requirements of the contract prospectus, subject to a total cap of 10 percent over the life of the contract. The committee strongly believe that such incentives are a desirable way to encourage and recognize good performance.

Sec. 9307. Capital improvements

This section outlines a program designed to encourage the private sector to develop necessary public facilities on Federal lands. The committee recognizes that congressional appropriations are inadequate to provide the level and types of facilities needed for full public enjoyment of Federal lands. Further, the committee believes that even if lack of Federal appropriations were not a problem, visitor facilities will be better cared for, at less cost, if they remain in private rather than public ownership. The committee is aware that some believe that private ownership of such facilities per se has been a barrier to competition for concession contracts in the past. The committee did not find any evidence to support that conclusion. However, the fact that the value of any private ownership has generally been unknown at the time of contract renewal has made it extremely difficult for many prospective concessioners to develop proposals. Therefore, section 9307 provides for the value of such facilities to be included in the prospectus. Under section 9307, the concessioner would only be permitted to construct those public facilities which are used directly by the concessioner, such as hotels, restaurants, campgrounds, or such facilities as are necessary for the concessioner to administer such facilities, such as employee housing and office space. The concessioner would not be authorized to construct any facilities for general administrative purposes.

Subsection (b) specifies that the concessioner shall be entitled to an investment interest in facilities constructed pursuant to the concession services agreement as determined by the Secretaries. Such investment interest shall not have any impact on title to the land nor shall it imply any right to operate any business or other activity. No concession service agreement shall provide for a concessioner to develop an investment interest in any wholly owned Government building. This provision was inserted because the committee believes that such jointly owned buildings are not desired.

Subsection (c) provides that if the concessioner is not selected at the time of the renewal of the current concession contract as the best concessioner, the new concessioner shall be required to purchase the investment interest of the incumbent concessioner.

Subsection (d) establishes the method for determination of the value of any investment interest. The legislation provides that the value will be based on replacement cost, not to exceed fair market value. This method for determining value ensures that the investment interest is not increased by either the location of capital improvements on Federal lands, or for income-producing properties, to an amount greater than the projected revenue stream will support.

Sec. 9308. Duration of concession authorization

This section establishes that the duration of a concession service agreement shall be not less that 5 years. In recognition of both the amount of work required for the Government to complete the competitive selection process and the need to ensure a reasonable level of certainty for the concessioner, the committee believes that 5 years is the minimum reasonable duration for a concession service agreement. The bill provides for a contract duration of 10 years more for all concession service agreements which are projected to generate average gross annual sales of $100,000 or more. This longer duration is commensurate with the level of investment required under such larger concession service agreements. No concession service agreement may be awarded for a duration greater than 30 years.

Sec. 9309. Rates and charges to the public

This section outlines the policy for establishing rates and charges to the public. To reduce costs to the Government, this section permits the rates to be established by the competitive market to the extent reasonable. The committee finds that NPS has an extremely burdensome process for rate approval, while other agencies simply reserve the right to review prices and only exercise that right in limited circumstances. The committee believes that rates should be set by market conditions, when there is adequate competition. The committee expects that the Secretaries will jointly develop general criteria to assist them in the determination whether adequate competition exists, so that this policy is administered on a consistent basis. The committee expects that the solicitation would include the determination by the Secretaries as to which aspects of the concession service agreement (if any) would be subject to price approval. When the Secretaries make a determination that adequate competition does not exist, the Secretaries shall review price proposals taking into consideration unique aspects of the concession operation. The Secretaries shall not conduct rate approval for any concession license.

Sec. 9310. Transferability of concession authorization

This section outlines the policy for transfer or sale of concession contracts. Secretarial approval is required for all sales or transfers. The Secretaries are expected to thoroughly review all such transfers to ensure that the successor concessioner will be able to fulfill terms of the concession service agreement and provide continuing public service. Further, the Secretaries shall review the terms of the sale to determine whether the rates charged to the public which will be required to support the sale will be reasonable. The Secretaries shall not approve any sale or transfer where they determine that rates to be charged to the public will not be reasonable. However, the Secretaries may not use the sale as an opportunity to change the conditions or terms of the contract, nor may the Secretaries unreasonably withhold approval of any such sale after all relevant information needed by the Secretaries to review the terms of the sale has been submitted for review.

Sec. 9311. Fees charged by the United States for concession authorizations.

This section outlines the process for determining fees to the United States. The committee is concerned that the lack of competition in existing concession agreements has been a major factor resulting in a return to the Government which is less than fair value for the privilege of providing concession services. The committee has adopted a process which will allow the market place to establish the fees to the Government to ensure a fair return. The legislation recognizes four different types of fees: First, Fees to the government for the privilege of providing concession services; second, amounts for any capital improvements; third, fees for rental of Government-owned buildings; and fourth, expenditures for maintenance or improvements to Government-owned buildings. A concession service agreement may include any of these different types of fees.

The committee expects that the Secretaries will set the minimum fee for each applicable category in the prospectus and that the final fee will be determined based on the proposal selected by the Secretaries. The committee does not expect the fee to be the most important factor in the selection process, but the committee believes that the fee should be established by market forces to the extent practicable. An exception is provided for similar outfitter and guide services in the same geographic area; when the Secretaries make such an offering, they shall specify a standard fee in the solicitation.

Subsection (c) enumerates the limited conditions under which the concession fees may be changed. The committee believes that concessioners will generally be willing to offer a higher fee to the government if they know that fees will not change over the life of the contract. Therefore the language specifies that the only time the fees may be changed is on the basis of inflation (if the fee is not established as a percent of gross), or if there are substantial changes from the conditions outlined in the prospectus. As envisioned in this section, a substantial change would be one where a proposal concession facility cannot be developed because the government cannot provide necessary infrastructure, or where a new management plan reduces the proposal size of a concession operation. A minor change in operating conditions due to reduced funding levels, etc. shall not be adequate cause to justify altering the fees. The committee expects that changes in fees will occur rarely under theses conditions.

Sec. 9312. Disposition of fees

This section covers disposition of the fees. Fees will either be retained for expenditure on-site or deposited in the Treasury as miscellaneous receipts. Fees which are for rental of Government buildings or which are for the privilege of providing concession services will be deposited into the Treasury, up to certain amounts; and fees for capital improvements and for maintenance or improvement of Government-owned and occupied buildings will be retained on-site in a concession improvement account. The bill specifies strict accounting for all funds generated pursuant to this part, including a

biennial review of the accounts by the relevant Departmental Inspector General.

Sec. 9313. Dispute resolution

This section outlines the process for dispute resolution. This part provides for a combination of reviews of decisions within the agencies, by an independent administrative board and by the courts. While this part makes it clear that a concession service agreement is not a contract subject to the Federal Acquisition Regulations, it is still a contract. Therefore, it is appropriate that the relevant departmental board of contract appeals be instructed to administer certain disputes arising pursuant to the legislation. One area not typically reviewed by such a board is performance evaluations, which will be subject to review of the board under this section. Since evaluations are such an important element under this part the committee is convinced that substantial additional oversight of this activity is warranted.

Sec. 9314. Recordkeeping

This section requires concessioners to keep adequate records and that the Comptroller General of the United States shall have access to these records.

Sec. 9315. Application of general governmental acquisition requirements

This section makes it clear that the Federal Acquisition Regulations do not apply to concession service agreements or to concession licenses, even though they are contracts.

Sec. 9316. Rules of construction

This section specifies that an agency's concession programs must be fully consistent with the agency's mission and laws applicable to the agency.

Sec. 9317. Regulations

This section requires that the agencies develop regulations for implementation of this part. This section specifies that no new concession contracts can be entered into after enactment of this part until the such new regulations are adopted by the agencies. This provision will prevent agencies from awarding contracts under the old, noncompetitive policies while the new policies are being developed. This section provides a 2-year window for the development of these regulations, which is more than adequate. Each agency will develop their own regulations for implementation. However, the agencies are required to adopt uniform reporting requirements for all concessioners. The regulations shall also specify the qualifications necessary for agency personnel assigned concession management duties. The committee believes that the agencies need to make a concerted effort to hire persons with a business background, as well as persons with expertise in the hospitality industry to ensure that the concession program provides the best service to the public and provides a fair return to the Government.

Sec. 9318. Relationship to other existing laws

This section provides for modifications to existing laws to conform to this part.

Subsection (e) is a savings provision to ensure that enactment of this legislation does not affect the validity of any authorizations entered into prior to enactment of this part. For any contract with specifically includes a right of renewal, such renewal shall be maintained under this legislation. Where such right of renewal is a matter of existing law or practice, it is not protected under this part. Any attempt to do so would seriously undermine the competitive aspects of this part. In addition, this part does not change the value of existing capital improvements entered into prior to the enactment of this part.

This subsection also specifies the process under which existing incumbent concessioners will compete at the time their existing concession contracts are up, should they choose to do so. Any concessioner whose contract has expired prior to enactment of this legislation, or whose contract will expire within 5 years after enactment of this legislation is entitled to receive a one-time automatic credit of 5 percent in the reissuance of their previous authorization. For any concessioner which has more than 5 years remaining on their contract, they will have the opportunity to earn performance incentives toward the renewal of their concession service agreement.

Part 2—National Forest Ski Areas

Sec. 9321. Privatization of Forest Service ski areas

The section directs the Forest Service to offer for sale not less than 40 qualifying ski areas to the permittee. The qualifying areas are those areas which are located adjacent to the boundary of a forest or adjacent to other significant inholdings and which have capital improvements greater than $2 million. The Secretary of Agriculture would be directed to sell the lands at fair market value. In addition, the Secretary is authorized to sell other Forest Service lands as part of the transaction. For example, the Secretary may sell lands adjacent to the ski area which could be developed for employee housing for the ski area. Proceeds from any such sale would be equally divided, so that 50 percent would be deposited into the Treasury as miscellaneous receipts and 50 percent would be retained by the Forest Service to acquire high priority tracts of lands as are identified in the plan for that forest.

Sec. 9322. Ski area permit fees and withdrawal of ski areas from operation of mining laws

This section provides for a new method for collecting fees for permits for the lease of Forest Service lands for ski areas. This provision would replace the existing graduated rate fee system [GRFS] with a new system based on a percent of the gross annual sales from alpine and nordic ticket sales and from other revenue-producing facilities on Forest Service lands. This provision would not apply to any ski area where the existing permit specifies that the fee would be determined under GRFS, unless agreed to by that operator. This section also exempts all lands under ski area permits

from mineral location under the mining laws, subject to valid existing rights.

Part 3—Domestic Livestock Grazing

Sec. 9331. Applicable regulations

Subsection (a) provides that grazing on lands administered by the Bureau of Land Management [BLM] shall be in accordance with part 1780 and part 4100 of title 43, Code of Federal Regulations as in effect on January 1, 1995.

Subsection (b) provides that except as otherwise provided, grazing of domestic livestock on lands administered by the Forest Service shall be similar to the regulations governing lands administered by BLM.

Sec. 9332. Fees and charges

Subsection (a) establishes a gross return fee formula based on a three-year rolling average of the gross value of production of livestock, as determined by the Economic Research Service, multiplied by the 10-year average of the U.S. Treasury securities 6-month Treasury bill "new issue" rate and divided by 12. For 1992, the gross value equaled $431. The 10-year average for the 6-month Treasury bill for the same period is 5.99 percent. Thus, the fee would be calculated as follows: $431 * .0599=$25.82; $25.82/12=$2.15. The grazing fee per animal unit month [AUM] for 1993 would be $2.15.

The National Agricultural Statistics Service of the Department of Agriculture shall make a determination of the gross value of production based on information gathered from livestock grazing operators. In addition, the subsection requires a subleasing charge equal to 25 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per year of the appropriate State. This applies to livestock not owned by a permittee's spouse, son, daughter, grandson, or granddaughter.

Sec. 9333. Animal unit month

Under subsection (a), with respect to grazing on Federal land in a State that charges a fee for grazing on State land based on a formula in which one of the factors is an animal unit month, the term "animal unit month" has the meaning established under State law.

Subsection (b), for calculation of the Federal grazing fee, defines one AUM as one cow, bull, steer, heifer, horse, burro, mule, or seven sheep or goats.

Sec. 9334. Term of grazing permits or grazing leases

Permit tenure is changed to a period of 15 years.

Sec. 9335. Conformance with land use plan

This section amends current law to state that the issuance of a grazing permit and other livestock grazing activity and management actions with a valid land use plan under the National Environmental Protection Act [NEPA] are ongoing Government actions that do not require NEPA documentation.

Sec. 9336. Effective date

This part shall apply to grazing on Federal lands on and after the date of the enactment of this part.

Part 4—Regional Disposal Facility of Southwestern Low Level Radioactive Waste Disposal Compact

Sec. 9341. Conveyance of property

Subsection (a) conveys all right and interest of the land parcel described in subsection (b) and held by the United States to Department of Health Services, and all necessary easements, upon the tendering of $500,000 and the release of claims of liability. This subsection also provides that the land revert to the United States if not used as a low level waste disposal facility before October 1, 2010.

Subsection (b) provides a description by map reference of the land to be transferred.

Subsection (c) requires the Secretary of Interior to issue evidence of title pursuant to this section, notwithstanding any other provision of law. It specifically provides that the Ward Valley disposal facility is in compliance with applicable sections of the National Environmental Protection Act, the Endangered Species Act and the Federal Land Policy Management Act [FLPMA], as amended. A final environmental impact statement/report and a final supplemental environmental impact statement have been issued in 1991 and 1992 respectively. Two biological opinions, one in 1990 and another in 1995, concluded that the project would not jeopardize the desert tortoise. Public need for the facility has been adequately demonstrated and the land has been classified as class M under FLPMA and thus is suitable for disposition.

Subsection (d) is a self-explanatory clause describing the Treasury account to which sums tendered are to be deposited.

Subsection (e) is self-explanatory.

Sec. 9342. Conveyance of easements

Subsection (a) conveys concurrent with the conveyance of the land described in section 9341(b), all necessary easements between Interstate 40 and the land and the right to improve those easements. The described easements are necessary for access to and from the land described in section 9341(b) and for needed utility corridors. The subsection also provides that the easements revert to the United States if the land referenced in section 9341(b) is not used as a low radioactive waste disposal facility.

Subsection (b) references a map that depicts the easements between Interstate 40 and the land. The legal description of the property subject to the easements is described in subsection 9342(a).

SUBTITLE D—TERRITORIES

Part 1—Commonwealth of the Northern Mariana Islands

Sec. 9401. Termination of annual direct grant assistance

The annual special grant assistance to the Northern Mariana Islands is terminated as of September 30, 1995. Any amounts pre-

viously appropriated but not obligated as of the date of enactment may not be obligated.

Part 2—Territorial Administrative Cessation Act

Section 9421. Short title.

This section provides a short title for the part, the Territorial Administration Cessation Act.

Sec. 9422. Congressional findings

These congressional findings highlight the recent end of the United Nations Trust Territory of the Pacific Islands and corresponding trusteeship responsibilities of the United States. Also, the U.S. territories have developed progressively increased self-governance during the past five decades, and Federal-territorial relations can be enhanced and fiscal conditions improved by the elimination of unnecessary Federal bureaucracy.

Sec. 9423. Elimination of Office of Territorial and International Affairs

The Office of Territorial and International Affairs [OTIA] of the Department of the Interior, established by Secretarial Order in 1980, is eliminated. The position of Assistant Secretary for the OTIA is terminated by reducing the authorized number of assistant secretaries of the Interior from six to five. The provisions would take effect the first day of the first fiscal year following the date of enactment.

Sec. 9424. Certain activities not funded

No further amounts may be expended for certain assistance programs for territories administered by the Department of the Interior: technical and maintenance assistance, disaster fund, and insular management controls.

SUBTITLE E—MINERALS

Part 1—Hardrock Mining

Sec. 9501. Findings and purpose

This section states that a secure and reliable domestic mineral supply is essential to the industrial base of the United States and that the purpose of subtitle E. part 1 is to provide for increased Federal revenue from mining in way which continues to achieve the foregoing objective by encouraging exploration and development of mineral deposits on public lands.

Sec. 9502. Patents under the general mining law

This section requires that patents granted after enactment will be subject to the payment of appraised fair market value for the land within the boundaries of the claims. Fair market value would be determined without considering the value of the mineral estate or the value of the surface as used for mineral activities. A transition period of 2 years is granted for mining claims which owners are subsequently able to demonstrate were valid on the date of enactment of this part. The committee intends that while such claims

must be supported by a discovery of a valuable mineral deposit within the meaning of the mining law, additional sampling post-enactment to confirm and corroborate pre-existing exposures of mineralization are legitimate showings in a subsequent demonstration of discovery.

For claimants who have been denied access to their claims by the Federal Government during the 5-year period immediately prior to enactment (e.g., BLM wilderness study area designation) the transition period is 10 years from the termination of the denial of access or the date of enactment, whichever occurs first. Such "grandfathered" mineral patents would not contain a reservation of royalty interest to the United States.

A five-year payment plan option is made available to claim owners grossing less than $500,000 annually. The moratorium on processing of mineral patent applications and issuance of patents contained within section 112 of Public Law 103–322, an act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1995, is affirmatively repealed.

Sec. 9503. Royalty under the general mining law

This section imposes a royalty of 3.5 percent upon the net proceeds of mines, as closely modeled on the State of Nevada's net proceeds tax, which has been levied for over a century. Deductions from gross proceeds are expressly delineated in the section and generally include development and production costs, both labor and capital, but not claim acquisition or exploration costs. Limitations on deductions are expressly delineated as well. In general, only those costs attributable to actual mining of the claimed deposit are deductible.

An exemption is provided from the royalty requirement for claim owners with net proceeds from all hardrock mines subject to this section yielding less than an aggregate $50,000 annually. Recordkeeping requirements for royalty reporting are left to the discretion of the Secretary, but the committee expects the Secretary to consult with hardrock mining industry financial experts during implementation of this section so as to build a streamlined, cost-effective royalty reporting system. Claim owners who unsuccessfully seek "grandfathered" patents would owe a royalty plus interest on minerals produced during the pendency of the patent proceedings.

Royalty receipts would be disbursed as follows: two-thirds to the U.S. Treasury, and one-third directly to the State from which the royalty was paid. Mineral patents issued after enactment will reserve such royalty interest to the United States unless the claim owner receives a patent under the transition rules of section 9502.

Sec. 9504. Mineral materials

This section prospectively eliminates all "uncommon varieties" of mineral materials as delineated in the Surface Resources Act of 1955 (i.e., sand, stone, gravel, pumice, pumicite and cinders) from location under the Mining Law and requires that such minerals be disposed via the Material Sales Act of 1947, as amended by this section. This section would provide for a modified Materials Sales Act of 1947 disposal of all such mineral materials with provisions to ensure quarry operators a long-term supply. A minimum charge

of 2 percent of the gross proceeds of the mineral materials sold would be collected by the Government.

The section repeals the Building Stone Placer Act of 1892 made unnecessary by the elimination of "stone" from the operation of the general mining laws, and the Saline Placer Act of 1901, which effectively has been utilized since passage of the Mineral Leasing Act of 1920. The committee expressly notes that this section does not pertain to deposits of gypsum, high calcium/magnesium-limestone, diatomaceous earth, specialty clays (e.g., bentonite, kaolinite, hectorite, fuller's earth, sepiolite, seponite, etc.) and other minerals not delineated in section 3 of the Act of July 23, 1955, commonly known as the Surface Resources Act (30 U.S.C. section 611). These types of minerals have been subject to the common versus uncommon variety distinction delineated in the 1955 act and remain subject to location. Patents to mining claims located for uncommon varieties of mineral materials which are valid prior to the date of enactment may be sought under the transition period of section 9502.

Subsection (i) limits the royalty rate which the Secretary may impose on leases for sodium compounds under section 24 of the Mineral Leasing Act of 1920 to not more than 5½ percent of the gross proceeds unless and until the Secretary, in consultation with the Secretary of Commerce and the U.S. Trade Representative, reports to Congress than an increase in royalty rate above such threshold will not adversely affect export of domestically produced soda ash. The royalty rate shall not be raised higher than 5½ percent until Congress approves such recommendation of the Secretary of the Interior. Furthermore, subsection (i) requires the Secretary of the Interior within 90 days of the date to enactment to offer for competitive bid tracts upon which applications for sodium leases are pending. The committee intends the tracts within the known sodium leasing area [KSLA] of the Green River basin in Wyoming to be offered for lease at a royalty rate not more than 5½ percent of gross proceeds, and that existing leases in the Green River KSLA that have reached the end of their primary terms be renewed with a royalty rate not to exceed 5½ percent. The committee does not intend to affect the royalty rate on existing sodium leases outside the Green River KSLA.

Sec. 9505. Claim maintenance requirements

This section requires payment of an annual claim maintenance fee which escalates with time (from $100 to $500 annually over a period of 16 years) to deter speculative holding of claims by nonbona fide interests. Credit for the value of annual labor performed to develop one's claim(s) would offset not more than 75 percent of the following year's fee. The value of qualifying labor that exceeds the 75 percent threshold may be carried forward for up to three years credit against the claim maintenance fee obligation, subject to the 75 percent limitation threshold. The committee expects a significant increase in the number of mining claims of record with the Bureau of Land Management, the result that many more claims would be located, explored, and either developed into mines or dropped depending upon one's assessment of mineral value.

This section clarifies what activities qualify for labor credit and imposes a new reporting requirement (both modeled on Alaska regulatory practice) upon those electing to credit such labor performed to ensure compliance. However, the obligation to perform such annual labor (as was required by law from 1866 to 1993) is not being restored in this part; therefore claimants may elect to pay the entire claim maintenance fee obligation rather than provide the records necessary to establish the value of annual labor sought for fee reduction credit.

Royalties paid by claimholders are credited against the claim maintenance fee obligation of the claimholder, except for royalties paid in the first year after enactment.

Part 2—Federal Oil and Gas Royalties

Sec. 9511. Short title

The short title of this part is the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995.

Sec. 9512. Definitions

Definitions are contained in this section to provide guidance and clarity. Many of the definitions are critical to the underlying concepts. Under the provisions of this part, the definitions apply to Federal lands and Outer Continental Shelf lands, and in no way shall be applied to Indian lands.

The term "obligation" includes all of the duties which arise under a lease issued by the Federal Government. A "lessee" is the person having a contractual relationship with the Federal Government. A "State concerned" is clarified to be the State which receives a portion of Federal royalties for Federal lands lying within the boundaries of the State and shall have an equal role with the Secretary in deciding the applicable provisions of this part. The term "order to pay" has been expressly defined. The committee believe that the information contained in this definition is necessary information for the tolling of the statute of limitations.

This section provides that the lessee notify the Secretary who will remit royalty by clarifying who is responsible for the payment of royalties. The committee intends to eliminate the delay in collection of these royalties because the Secretary will contact only those parties that are liable, or designated to be liable, to remit royalty. The Interior Board of Land Appeals *Mesa* decision demonstrates that the Secretary's current royalty collection practices must be altered to comply with the law. This section does not reduce the Secretary's ability to accept payment from any party or their ability to pursue parties who are secondarily liable.

This provision has no impact on the current requirements for reporting and paying of royalties. This provision clarifies which party is primarily liable for the underlying royalty obligation, which is consistent with lease terms. The provision does not alter or restrict a lessee's designation of who may report and pay royalties on their behalf.

Sec. 9513. Limitation periods

The statutory limitation period is certain and is a fair and reasonable 6-year time period. It is reciprocal and applies to both lessees and the Federal Government. The establishment of this statute of limitation for obligations is fundamental to a well-ordered judicial system and is required by modern standards of equity and fairness. The committee intends prompt resolution of disputes, necessary for the orderly and fair administration of justice. Additionally, the limitation is intended to reduce the cost of keeping records and deferring collection of Government claims.

The Government will be barred from asserting old and stale claims in court which the committee notes will require increased efficiency in Government claims proceedings. As a matter of fairness, persons dealing with the Government should have protection against an action by the Government which arose from a transaction occurring more than 6 years previously. Likewise, lessees are barred from asserting claims against the Government beyond the limitation period.

Under this section, a judicial proceeding must be filed, and demands for relief must be commenced, within 6 years after the obligation becomes due. If not, no other action by the Secretary or the United States is permitted for an obligation for which the limitation period has ended.

The circumstances under which the period of limitation is to be suspended or tolled are limited and the committee intends the tolling provision to be narrowly construed. The statute of limitation is tolled only by: First, Agreement; second, the issuance of a Secretarial subpoena to produce records; third, fraud or concealment by a lessee; fourth, a request from a lessee when its entitlement to an overpayment has not been finally determined; or fifth, the issuance of a Secretarial notice that a lessee has not adequately performed restructured accounting.

It is the committee's intent to require that the person issuing the subpoena be a political appointee subject to confirmation by the Senate, and to prevent the solicitor from issuing subpoenas. The solicitor is not in a policy position, and should be responsible only to carry out the subpoena as counsel for the policymaker.

If during the course of an in-depth audit, the Secretary determines that a lessee has made significant underpayments or overpayments based upon recurring reporting errors, the Secretary may issue an order to perform a restructured accounting within a reasonable period of time after the audit activity identifies the systemic reporting errors. The order can only be issued by the most senior career professional person in the Secretary's royalty management program and must specifically contain the enumerated items identified in this section.

If the lessee fails to adequately perform the required accounting pursuant to the order to perform restructured accounting, the Secretary must issue a notice that the lessee has not adequately performed the accounting. This notice will toll the limitation period for the period beginning on the date the lessee receives the notice until the lessee notifies the Secretary the accounting has been performed or until a court determines the accounting is not required to be performed.

To collect disputed royalties on a more timely basis, final agency decisions must be issued within 3 years. The Secretary and a lessee are encouraged to settle a dispute within three years, thereby resulting in royalties being paid sooner. To facilitate early settlement, a settlement consultation is required. The 3 years may not be extended by any agency action. If after 6 years from the date the obligation is due, the Secretary and the lessee can not settle the dispute, the interest rate is reduced. The reduction due the Secretary for underpayments will be reduced by 1 percent and the rate due the lessee will be reduced by 2 percent per year until resolved.

If enforcement of an obligation is barred, the United States can take no further action with regard to that obligation. If a demand is timely commenced, judicial review is timely if filed within 180 days of notice of final agency action. Any party ordered to pay an obligation is entitled to a stay without bond pending administrative or judicial review, if that party is financially solvent. Conflicting statutes (including the Debt Collection Act) which circumvent and undercut the purpose of a statute of limitation of finality, certainty and fairness are expressly declared inapplicable to obligations covered by this part. All other statutes are to be applied consistently with the terms of this part.

This section expressly provides that this part applies to suits brought by a State on an obligation which is subject to the terms of this part. The statute of limitations and other provisions of this part shall apply to State suits.

This section allows for collection of a royalty payment on an obligation on the last day of the second calendar month following production. The committee intends to rectify the problem of a lessee being required to make a royalty payment without sufficient information to do so. The committee expects the Secretary to work with States concerned and industry representatives to develop an implementation schedule that will not significantly impact collection of royalty receipts.

Sec. 9514. Adjustment and refunds

This section provides more efficient and cost-effective accounting practices for reporting, paying, and adjusting royalty payments. This is made necessary by the complexity of determining proper payment, especially in light of deregulation of the gas marketing industry, which has resulted in accounting adjustments for prior reporting months. It is in the best interest of the Federal Government and industry to expeditiously adjust royalty payments to reflect correct amounts of royalty obligations due. The adjustment provision has been established to ensure such adjustments can be reviewed by the Secretary after the fifth year, yet before the expiration of the limitations period.

Lessees are granted 5 years to make adjustments or request refunds to correct an underpayment or overpayment of an obligation. However, this 5-year period shall be extended if the limitations period in section 9513 of this part is tolled. Each adjustment is to be made on a lease-by-lease basis on the royalty report and will serve as sufficient notice to the Secretary. In order to give the Secretary a reasonable time period (1 year) to audit any adjustments made to an obligation, the adjustments or requests for refund may only

be made outside the 5-year period, and only up to 6 years from the date the obligation was due, because the production month of the adjustment must be under audit by the Secretary, and the Secretary must authorize the adjustment. The Secretary must allow the adjustment to be offset against any audit findings on any obligation for that lessee (or designee).

To accelerate interest revenue due the Federal Government and to simplify and reduce costs associated with the Minerals Management Service's [MMS] interest processing model, a lessee (or designee) is required to calculate and pay interest due for overpayments and underpayments as a separate line item on the royalty remittance report. This line item is reported at the same time an adjustment to an obligation is made, unless determined by the Secretary to be a hardship case. Hardship is defined by the Secretary based on payment levels. For payers below the payment threshold, the Secretary shall calculate interest due and notify the lessee. Lessees subject to the hardship classification can elect to calculate and report their own interest obligation.

Pursuant to this part, refunds are permitted where a lessee (or designee) may not be able to make an adjustment to their royalty report. These situations include sale of the lease between the time the original obligation was paid and an adjustment became known. These requests must provide enough detail for the Secretary to identify the overpayment and reasons for the request. In order to expedite claims, and to reduce interest costs to the Government, requests for refunds must be paid or denied by the Secretary within 120 days of receipt of the refund request. The request, if granted, will be subject to audit pursuant to other provisions of this part.

The Secretary of the Treasury is authorized and directed to make proper refund payments to be paid from receipts received under the Mineral Leasing Act and the Outer Continental Shelf Lands Act to be proportionally deducted from amounts disbursed to the States or the reclamation fund.

Sec. 9515. Required recordkeeping

The purpose of the required recordkeeping provision is to conform a lessee's record keeping requirement to the statute of limitations. The lessee shall maintain records for an obligation within the 6-year limitations period but is not required to keep or provide records beyond the 6-year period. This provision was needed in response to recent court decisions and the burden of indefinite records retention.

Sec. 9516. Royalty interest, penalties, and payments

Interest is allowed and will accrue on overpayments from the date that the overpayment was made, effective either 6 months after date of enactment of this part or September 1, 1996, whichever is later. Because of the requirement that the royalty obligation be paid monthly, paying interest from the date the overpayment is made retains symmetry in the monthly accounting process. The Secretary has discretion to issue interest bills for deminimus amounts of interest if the cost to collect the interest exceeds the cost collected.

Today many royalty payments made to MMS are initially based on estimated volumes and values as opposed to actual volumes and values because of the inherent marketing complexities of the oil and gas industry and the complexities associated with determining proper valuation. These complexities are primarily related to Federal Energy Regulatory Commission's deregulation of the gas business, thereby making it almost impossible for industry, within the date the royalty obligation is due, to ascertain the correct value on which royalty is due.

In order to comply with current MMS practices, industry is forced to estimate the volume and value of gas production on which royalty is due. Not surprisingly, these monthly estimated payments are not 100-percent accurate, resulting in a series of over and under payments to correct the amount reported and paid. Hence the current royalty system and requirements differ significantly from an individual's personal income tax payment, due annually on April 15. An individual's initial payment made to the Internal Revenue Service is based on actual values as opposed to estimated values and does not require after the fact adjustments.

Given the complexity of determining proper production value for the month following the month of production, lessees do not have the information available to report and pay their royalty obligations accurately when the obligation is due, and should be provided the time value of money when data later indicates that they overpaid. The committee intends the rate of interest to be paid on overpayments to be the same rate paid to income taxpayers on their overpayments, the short term rate plus 2 percent. Interest shall accrue from the date of the overpayment. The Secretary of the Treasury is directed and authorized to make interest payments under the Minerals Leasing Act and the Outer Continental Shelf Lands Act.

If the Secretary determines that a lessee has paid in excess of 25 percent of its total royalty obligation for all of its leases subject to this part and further determines that such excessive payment was made for the sole purpose of receiving interest, the Secretary shall not pay interest on the amounts paid in excess of 25 percent. The committee expects lessees to place excess cash in other interest-bearing accounts rather than with the MMS.

Lessees will be allowed to submit an approximate amount of royalties to avoid underpayment or nonpayment interest charges. When an estimated payment is made, the royalty payment becomes due at the end of the month following the period covered by the estimated payment. The committee does not intend to restrict the period of time covered by an estimate to 30 days.

To provide clarity and establish simpler reporting on the most complex properties, royalty payment requirements are established for Federal leases contained in unit or communitization agreements. These requirements resolve the long-standing debate surrounding the proper volumetric basis for these properties for reporting and payment of royalties. In addition to providing clarity and simplicity, these requirements accelerate collections of royalties to the Government. At the end of the calendar year, for properties which have marginal production, royalties shall be paid on actual sales volumes and compared to the entitled volumes to de-

termine if the obligation due has been over or underpaid. The Secretary and the State concerned shall agree on the definition of marginal for the provision of payment under this section. This provision will provide administrative relief associated with reporting for small producers.

Within 2 years of enactment of this part, the Secretary shall resolve and issue demands on all outstanding payment disputes resulting from unitization and communitization agreements.

Pursuant to the terms of Federal unit and communitization agreements, the Secretary receives requests for approval of allocation schedules for participating areas and communitization agreements. Delaying approval of this request delays determination of royalty value and results in costly retroactive adjustments. This section requires the Secretary to approve such requests within 120 days of receiving a complete request. If the Secretary does not approve the request, he shall waive interest on the obligation for the period of time following the 120th day until the request is approved by the Secretary.

Sec. 9517. Limitation on assessments.

The Secretary may not impose assessments for late payment or underpayment, but the committee expects the Secretary to continue to impose civil penalties or interest. To reduce administrative burden and costs associated with assessments, assessments may not be imposed for erroneous reports for 18 months following date of enactment, or until the Secretary issues a final rule, whichever is later. However, assessments may only be made against a lessee who chronically submits erroneous reports and such assessments shall only be made during this 18-month period if the error rate for all lessees increases by one-third for 3 consecutive months.

Sec. 9518. Alternatives for marginal properties

The Secretary and the State concerned, as applicable, shall offer to lessees of marginal properties the opportunity to make a prepayment in lieu of royalties for the remainder of the lease term, based on the present value of projected royalty share of remaining production. The definition of marginal production shall be jointly determined by the Secretary and the State concerned.

Identification of marginal properties for prepayments shall be based upon the average royalties paid per month. The Secretary shall have 2 years to set up the program to begin selling the revenue stream. After 2 years, the Secretary shall make available the prepayment option for properties. In the first year after this term, properties with less than $500 of royalty due per month will be made available, then increasing by $500 increments per ear for the next 2 years. In year 6, the Secretary shall make available a prepayment option to all marginal properties determined appropriate for this alternative, and approved by the State concerned.

The Secretary and the State concerned must agree that the prepayment represents the present value of the projected remaining royalties, and the prepayment shall satisfy in full a lessee's royalty obligation relative to reporting, collection, and auditing.

In addition to the marginal property program described above for selling the revenue stream, the Secretary and State concerned shall

offer the same prepayment option for properties that are not cost-effective to administer. Such properties include remotely located Federal leases or States which have little Federal oil and gas royalties.

Within 1 year after the date of enactment, the Secretary and the State concerned shall develop accounting, reporting, and auditing relief for marginal properties to reduce the regulatory burden. This relief will promote growth and continued production. The concerned State must agree to the proposed relief prior to the Secretary granting such relief for marginal wells.

Sec. 9519. Royalty-in-kind

This section clarifies and establishes the requirements of the Secretary and lessee if the Secretary exercises the option to take his oil or gas in-kind. This section expressly provides for taking royalties in-kind at or near the lease (unless the lease specifically provides otherwise). Also the Secretary must provide adequate notice to the lessee so as not to disrupt the lessee's marketing arrangements. This provision also establishes that delivery of the Secretary's oil or gas by the lessee at the designated take point shall satisfy in full the lessee's royalty obligation and recordkeeping requirements. The only records required to be retained by the lessee will be those to verify the Secretary's volume of oil or gas delivered, subject to other provisions of this part, including the statute of limitations.

Sec. 9520. Royalty simplification and cost-effective audit and collection requirements

Within 1 year after the date of enactment of this part, in consultation with the States concerned, the Secretary is required to streamline and simplify current royalty management requirements and practices. The type of reform intended by the committee is contained in the testimony from the July 18, 1995, hearing of the House Energy and Minerals Resources Subcommittee. At the end of 1 year, the implemented simplification measures by the Secretary must reduce the costs to administer Federal royalties for the Secretary, States, and lessees and thereby increase net royalties to the United States and the States. The Secretary is required to submit a report to Congress on implementation of this section within 6 months from date of enactment, and a final report within 12 months outlining specific initiatives implemented.

The Secretary and the State concerned are required to determine what Federal accounting and collection activities cannot be performed cost effectively. If the amount of taxpayer dollars used to perform the collection or the practice exceeds the amount to be collected, then the collection or activity is not to be performed. The committee intends for the Secretary and States to be particularly mindful of improvements relative to small amounts of production. For Federal leases within a State, that State must agree to the elimination of the collection or practice. However, the Secretary must ensure that a standardized reporting and collection process is retained so as not to significantly increase reporting and collection costs to the lessee.

The committee expects the Secretary and the State concerned to develop an audit strategy which eliminates redundant reporting. Through the application of the Paperwork Reduction Act, State auditors auditing Federal lands under delegation via section 205 of the Federal Oil and Gas Royalty Management Act of 1982 shall not be allowed to require or request information and forms previously provided to the Secretary by the lessee. Also, the States and Secretary may not both audit the same lease(s) for alike time periods or require information relative to the same lease(s) and time period once either the Secretary or States begin an audit of such lease(s).

Sec. 9521. Repeals

This provision repeals statutes in conflict with the part's provisions.

Sec. 9522. Delegation to States

States may currently perform certain royalty audit activities if they enter into a cooperative agreement with the Secretary. This section allows a State to enter into a cooperative agreement with the Secretary to perform legally delegable royalty and production accounting activities. If a Federal activity is not deemed to be inherently Federal and it does not compromise efficiencies realized by standardized collection and royalty reporting processes, an interested State may pursue a cooperative agreement to perform such activity.

Sec. 9523. Performance standard

This section provides that certain civil penalties may only be levied on lessees who engage in "willful misconduct or gross negligence."

Sec. 9524. Indian lands

This part does not apply to Indian lands. Upon enactment, there will essentially be two Federal Oil and Gas Royalty Management Acts. The 1982 version, unamended by this act, will continue to apply to all Indian leases and production occurring on or before the date of enactment. For oil and gas production occurring after the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982 as amended by this act will apply.

For any State having Federal leases which result in less than $100,000 in Federal mineral revenues, the State may request that the Secretary delegate collection to the State or allow the State to sell the revenue stream from all or part of the Federal leases contained in the State.

Sec. 9525. Private lands

This part does not apply to private lands.

Sec. 9526. Effective date

This part will apply to production of oil and gas on and after the first day of the month following the date of enactment of this part. In no way does the committee intend the provisions of this part to alter rights or obligations of the Secretary for production occurring

prior to the date of enactment, unless expressly noted otherwise in this part.

SUBTITLE F—INDIAN GAMING AND HEALTH

Part 1—Indian gaming

Sec. 9601. Indian gaming

Subsection (a) amends section 18(a) of the Indian Gaming Regulating Act to increase, by $1 million, the Indian Gaming Commission's authority to impose up to $1,500,000 in fees on certain Indian gaming activities.

Subsection (b) amends section 19(a) of the Indian Gaming Regulatory Act to terminate all authority to appropriate funds for the operation of the Indian Gaming Commission. One million dollars was appropriated for the operation of the Commission in FY 1995 and the same is proposed for FY 1996.

Part 2—Indian Health: Medicaid

Sec. 9611. Health care facilities

This section would allow tribally operated health programs which own their own facilities to participate in the Medicaid program. Current law only allows Indian Health Service [IHS] and tribal programs which operate out of IHS-owned facilities to participate in Medicaid. This provision would ensure that tribal programs operated out of facilities owned by a tribe, a tribal organization, or an urban Indian organization, would be eligible to receive reimbursement through Medicaid.

Sec. 9612. Provider reimbursement

Subsection (c) would ensure that IHS and tribal health programs which currently participate in the Medicaid program will continue to be eligible providers under any new State plan created as a result of Medicaid reform. It is likely that under the proposed Medicaid plan, which will cap entitlement funds and block grant them to States, the States will enroll their own Medicaid eligible citizens in HMO or managed care-style plans. Thus, Medicaid-eligible patients will have to go to those health care providers that are sanctioned through the State plan. This section is intended to ensure that tribal or IHS health care providers will remain able to treat Indian Medicaid-eligible patients and participate as any other provider would under a new State plan.

Subsection (d) would ensure that all Medicaid-eligible Indians will continue to have the ability to receive care from a State plan provider under any new State plan created pursuant to proposed Medicaid reform legislation.

Subsection (e) would ensure that a private health care provider who provides services to Medicaid-eligible Indians is not denied payment by the State on the grounds that the State is the payor of last resort and the provider should first seek reimbursement from the IHS.

Subsection (f) would ensure that tribes are consulted in the development of State plan standards under Medicaid reform.

Sec. 9613. Study

This subsection requires the Secretary of Health and Human Services to carefully study the effects of Medicaid reform on Indians and Indian tribes and report to Congress as to whether the effects are good or bad and what can be done to improve Medicaid for Indians.

Part 3—Indian Health; Medicare

Sec. 9621. Health care facilities

This section allows tribally operated health programs which own their own facilities to participate in the Medicare program. Current law only allows IHS and tribal programs which operate out of IHS-owned facilities to participate in Medicare. This provision would ensure the tribal programs operated out of facilities owned by a tribe, a tribal organization, or an urban Indian organization, would be eligible to receive reimbursement through Medicare.

Sec. 9622. Provider reimbursement

The purpose of this subsection is to ensure that IHS and tribal health programs will continue to be eligible providers under any new plan offered under the Medicare Plus plan as a result of Medicare reform. It is likely, under proposed Medicare reform legislation, that the Federal Government will offer incentives to enroll Medicare-eligible beneficiaries in HMO or managed care-style plans. This subsection is intended to ensure that tribal or IHS health care providers, who treat Indian Medicare-eligible patients, will continue to be able to participate along with other providers under the Medicare Plus plan.

SUBTITLE G—CONSULTATION

Sec. 9701. Consultation

Section 7 of the Endangered Species Act sets forth a requirement that Federal agencies ensure that their actions do not jeopardize the continued existence of the species or adversely modify the habitat of the species. If an agency finds that such a result is likely, it must enter into consultations with the Secretary of the Department of the Interior who will render a biological assessment setting forth the impact of the proposed Federal agency action and suggesting reasonable and prudent alternatives.

After consultation is initiated, the agency is required not to make or allow the private license or permit applicant to make an irretrievable commitment of resources which might have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives. This section would make it clear that the prohibition against the irretrievable commitment of resources applies to a project or site specific activity. The prohibition would not apply to long-term planning activities, missions, policy statements, programmatic documents or general statements of policy.

SUBTITLE H—MAPPING

Sec. 9801. Short title

This section establishes the short title for this subtitle, Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act.

Sec. 9802. Surveying and mapping contracting program

This section requires the Secretary to conduct a surveying and mapping contracting program.

Sec. 9803. Inventory of activities

This section requires the Secretary to conduct and publish an inventory of surveying and mapping activities to serve as a baseline for the contracting program.

Sec. 9804. Plan to increase use of contracts

This section requires the Secretary to establish a plan to increase the use of contracting with the private sector for Department's surveying and mapping needs.

Notwithstanding this provision, the committee does recognize that contracting out efforts are underway in many Department of the Interior agencies. For example, an agreement reached in this Congress requires the U.S. Geological Survey [USGS] to contract 60 percent of its mapping services by 1999.

Also, the proposed contracting program contained in this section is not intended to preclude Federal participation in a more expansive study of surveying and mapping this year. The study, encompassing the issue of contracting, will address what is the appropriate use of Government, if any, in surveying and mapping functions.

With respect to sections 9803 and 9804, the committee intends to include both the professional association representing surveying and mapping and the private trade association, MAPPS, in the consultation process on the contracting program.

This plan will include: Reduction in surveying and mapping activities by Department personnel that duplicate private sector capabilities; reduction in acquisition and maintenance of equipment that duplicates the private sector; prohibition on Department performance of services for other Government entities that can be obtained by contract from the private sector; increase use of contracts for requirements created through attrition in the Department; and enhancement of the Department's role in preparation of standards and specifications, research and technology transfer, coordination, cost sharing, and administration, establishing goals for contracting, and performing activities that are inherently governmental in nature.

Sec. 9805. Reports

This section requires annual reports to track program progress.

Sec. 9806. Definitions

This section defines the terms "surveying and mapping" and "contract" based on current regulations of the U.S. Army Corps of Engineers, the Government's largest contractor of these services.

SUBTITLE I—NATIONAL PARK SYSTEM REFORM

Sec. 9901. Short title

This section provides that this subtitle may be cited as the National Park System Reform Act of 1995.

Sec. 9902. Definitions.

This section defines terms used in the bill.

Part 1—National Park System Plan

Sec. 9911. Preparation of National Park System plan

This section directs the Secretary of the Interior, acting through the Director of the National Park Service [NPS], to prepare a plan to guide the direction of the National Park System into the next century. The plan would be submitted to Congress and would: Define the role of the NPS in preserving America's heritage relative to other efforts at the Federal, State, local, and private levels; include detailed criteria to be used to determine which resources are appropriate for inclusion in the National Park System; identify aspects of American heritage which are adequately and inadequately represented in the existing National Park System; and list priorities of the types of resources which should be added to the National Park System. Additionally, the plan would include an analysis of the role of the NPS with respect to such topics as the conservation of natural areas and ecosystems, the preservation of industrial America, the preservation of intangible cultural resources, open space protection, and the provision of outdoor recreation opportunities. These five topics need particular attention due to the increasing frequency of legislative initiatives relating to them and the park planning and management questions they pose.

While human history continues to evolve, leading to a virtual unending supply of historical sites for potential inclusion in the National Park System, the variety of natural systems is finite and generally well known. Further, while all Federal agencies are required to preserve historic resources in accord with the National Historic Preservation Act of 1966, for Federal agencies, other than the NPS, this responsibility is incidental to the basic agency mission. However, there are three other Federal land management agencies who have conservation of natural communities as a primary agency mission. In the past, a number of new park units have been established by transferring lands from the jurisdiction of other Federal land management agencies to the NPS. The respective roles of these agencies must be clarified to reduce duplication and cost, and ensure a more integrated land use planning approach.

The committee notes the growing number of legislative initiatives dealing with America's industrial and technological history, ranging from mining to manufacturing. The committee believes

there is an important role for the NPS in preserving and interpreting our industrial heritage and notes that a number of such units already exist. The committee is concerned, however, about the proliferation of such proposals and the lack of context and criteria to guide the consideration of these proposals, and their potential cost. The history of industry is full of advances and innovations and there are numerous sites which may have some historic value. The NPS needs to develop a framework to help decide how to best use its limited resources to assist in the preservation of industrial history.

The committee also notes a trend of new area proposals dealing with art, music, and other nontangible cultural resources. The NPS needs to develop a clear policy direction with regard to these types of resources.

Protection of undeveloped open space is argued by some as important to the overall quality of life. This is particularly true in urban areas, where open space is often limited. In recent years, there have been an increasing number of proposals for the Federal Government, through the NPS, to devote considerable effort to urban space protection. Oftentimes, these areas do not have any nationally significant natural resource values. The NPS needs to evaluate the extent to which the agency should make commitments to open space preservation.

The provision of outdoor recreation opportunities has always been a function of the NPS, yet there is little congressional policy direction about how this function fits in with the more fundamental agency role of protecting natural and historical resources. Outdoor recreation is essential to the quality of our lives, and outdoor recreation opportunities are provided by nearly every land managing agency at the Federal, State, and local level. The plan should address NPS's particular role in providing outdoor recreation opportunities relative to these other agencies, and whether outdoor recreation is a reason in and of itself to establish a unit of the National Park System.

Subsection (a)(8) directs NPS to prepare a comprehensive financial plan for its future. The committee is very concerned about adequacy of funding for the NPS. NPS general management plans, new area studies and other plans often propose actions which are not financially achievable. Therefore, the committee wants to ensure that: First, NPS develops a program which will meet the basic financial needs of the agency to provide for resource conservation and essential visitor services; and second, that any plan for the future of the agency be financially realistic.

Subsection (b) requires to undertake a broad program of public involvement in the development of the plan. The consultations will include appropriate opportunities for public review and comment.

Subsection (c) directs NPS to submit the plan to relevant congressional committees no later than two complete fiscal years after the date of enactment of this part.

Subsection (d) provides for an opportunity for Congress to provide input into the plan. Since any plan developed for the future of the National Park System will only be viable to the extent it is agreed to by both the administration and Congress, it is critical that Congress be provided an opportunity for input on this plan.

Congress may elect to adopt the plan entirely, agree with some portions of the plan and reject other portions, or reject the plan entirely.

Subsection (e) provides for the official identification of existing areas or units of the Park System. This is important, since existing law requires that all existing laws, policies, and regulations of the Park System apply to all areas administered by the agency. Without an accurate list of areas or units administered by NPS, the agency would be required to apply this regulatory framework to areas unintended by Congress. For example, a general management plan would have to be prepared for every area and NPS policies on fishing and hunting could have unknown intentions.

Subsection (f) clarifies the manner in which units may be added to the National Park System. Specifically excluded under this language is the authority of the Secretary of the Interior to establish new units pursuant to a cooperative agreement.

Sec. 9912. Management review of National Park System

This section directs the Secretary to conduct a management review of the existing National Park System to determine whether there are more appropriate alternatives for managing specific units or portions of units, including partnerships or direct management by State, local governments, other agencies, or the private sector. This review would be conducted using the direction provided by the plan required in section 9911 and by the criteria developed pursuant to this section.

In conducting this review, the committee does not intend for NPS to conduct a boundary study of every park area. Rather, the term "significant portion" refers to a discrete portion of a park which would typically constitute a district or subdistrict. While the Secretary may recommend discontinuation of NPS management for any entire unit of the Park System (except a national park), which is inconsistent with the National Park System plan, the Secretary may only recommend modification of the management at a portion of a part which does not conform to the plan. The legislation prohibits the Secretary from reviewing any portion of the 54 areas currently classified as "national parks."

In developing the list of areas where NPS management should be modified or terminated, this section also requires the NPS to consult with other Federal agencies, State and local officials, resource managers, recreation and scholarly organizations and other interested parties. This list would be transmitted to Congress within 18 months after the completion of the National Park System plan and would require the Secretary to recommend alternative entities to manage sites proposed to be terminated. For any area determined to have national significance, the Secretary shall identify feasible alternatives to NPS management which will protect the resources and assure continued public access.

This section does not provide for the automatic closing of any unit of the National Park System. Instead, the committee believes that Congress should retain this authority. National Park System units, in the overwhelming majority of cases, have been established by congressional action and any deauthorization should be by act of Congress as well. While legislation would be required to de-

authorize any existing park units, this part is not intended to limit the Secretary's current authority to make modifications in the management of National Park System units, including developing partnerships or other arrangements to the extent that such modifications are already authorized by law. The committee notes the sensitive nature of NPS's task in developing this list. The committee expects NPS to make an intensive effort to research, develop, and cultivate alternative entities to manage areas proposed for deauthorization. The likelihood of deauthorizing legislation passing Congress would be increased if there is sustained and thorough effort to develop a "soft landing" for areas proposed for deauthorization.

Sec. 9913. National Park System Review Commission

This section provides for the establishment of an 11-member National Park System Review Commission. This Commission would be charged with reviewing the report of NPS prepared pursuant to this section, or, if the Secretary does not complete such a report, the National Park System Review Commission is charged with preparing the report in the same manner as if prepared by the Secretary. The National Park System Review Commission shall complete its work no later than 2 years after the completion of NPS plan, and shall terminate 90 days after submission of its report to Congress.

The committee believes that establishment of an independent Commission is the best way to ensure the completion of a thorough, independent, and professional review of the National Park System. The committee has provided for a balanced Commission by ensuring the involvement of the administration and House and Senate majority and minority leaders in the selection process for Commission members. Further, the legislation requires that Commission members be knowledgeable regarding NPS and have special expertise with respect to the mission of the agency. With respect to the requirement that Commission members have expertise in natural resources, the committee intends that the commission include expertise in both marine resources and terrestrial ecology.

Sec. 9914. Subsequent act of Congress required to modify or terminate a park

This section clarifies that congressional action is required to modify or terminate a National Park System unit.

Sec. 9915. Authorization of appropriations

This section provides for the authorization of necessary funding to implement the part.

Sec. 9916. Commendation and protection of National Park Rangers

This section requires that the Secretary of the Interior report to Congress on procedures in place to report threats or acts of violence against NPS employees.

Part 2—New Area Establishment

Sec. 9921. Study of new park system areas

This section amends the Act of August 18, 1970 (commonly known as the General Authorities Act) to make a number of reforms to the new area study process.

The new subsection (b) provides that at the beginning of each calendar year, along with the annual budget submission, the Secretary will submit to Congress a list of any areas recommended for study with potential to meet the established criteria of national significance, suitability, and feasibility. The Secretary shall give special consideration to themes, sites, and resources not already adequately represented in the National Park System as identified in the National Park System plan.

This section would require all new area studies to be specially authorized by Congress. The committee notes that this prohibition does not apply to the authority of NPS to conduct preliminary resources assessments, gather data on potential study sites, provide technical and planning assistance, process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual sites requiring a total expenditure of less than $25,000. The committee also notes that this provision does not effect the study authority contained in the Wild and Scenic Rivers Act, the National Trails System Act or the Wilderness Act. Upon authorization, studies would have to be completed in 3 years and would have to contain the management alternative preferred by NPS. This section also specifies the national significance, suitability, and feasibility criteria and other factors which the study must consider.

Each study shall identify what alternative or combination of alternatives would, in the professional judgment of NPS, be most effective and efficient in protecting significant resources and providing for public enjoyment. The letter transmitting each study to Congress shall contain a recommendation regarding the administration's preferred management option for the area. The committee expects these studies to reflect the highest possible professional standards and provide a clear recommendation to Congress. If an area fails to meet established criteria, the study should clearly state this finding. The purpose of these reforms is to provide Congress with the professional opinion of NPS earlier in the process of considering areas for addition to the Park System.

This section also requires the Secretary to annually submit a prioritized list of areas previously studied for addition to the National Park System. NPS will submit two priority rankings, one for areas which contain primarily historical resources and one for areas which contain primarily natural resources.

Changes in Existing Law Made by Title IX of the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

* * * * * * *

SEC. 24. That upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in section 23 hereof have been discovered by the permittee within the area covered by his permit and that such land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit at a royalty of not less than 2 per centum *and not greater than five and one-half per centum* of the quantity or gross value of the output of sodium compounds and other related products at the point of shipment to market; the lands in such lease to be taken in compact form by legal subdivisions of the public land surveys or, if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior. Lands known to contain valuable deposits of one of the substances enumerated in section 2 hereof and not covered by permits or leases shall be subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres. All leases under this section shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 2 per centum *and not greater than five and one-half per centum* of the quantity or gross value of the output of sodium compounds and other related products at the point of shipment to market, and the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof, 50 cents per acre for the second, third, fourth, and fifth calendar years respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for any one year to be credited against royalties accruing for that year. Leases under this section shall be for a period of twenty years, with preferential right in the lessee to renew for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such period: *Provided,* That nothing in this Act shall prohibit the mining and sale of sodium compounds under potassium leases issued pursuant to the Acts of October 2, 1917 (Fortieth Statutes at Large, page 297), and February 7, 1927 (Forty-fourth Statutes at Large, page 1057), nor the mining and sale of potassium compounds as a by-product from sodium leases taken under this section: *Provided further,* That on application by any lessee the Secretary of the Interior is authorized to modify the rental and royalty provisions stipulated in any existing sodium lease to conform to the provisions of this section.

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GRANT OF AUTHORITY

SEC. 28. (a) * * *

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[RIGHT-OF-WAY CORRIDORS

[(s) In order to minimize adverse environmental impacts and to prevent the proliferation of separate rights-of-way across Federal lands, the Secretary shall, in consultation with other Federal and State agencies, review the need for a national system of transportation and utility corridors across Federal lands and submit a report of his findings and recommendations to the Congress and the President by July 1, 1975.]

EXPORTS OF ALASKAN NORTH SLOPE OIL

(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within 5 months after the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within 4 months of the date of the enactment of this subsection; and

(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including in noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exports of this oil or

under Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76).

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

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SEC. 36. That all royalty accruing to the United States under any oil or gas lease or permit under this Act on demand of the Secretary of the Interior shall be paid in oil or gas.

Upon granting any oil or gas lease under this Act, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: *Provided,* That inasmuch as the public interest will be served by the sale of royalty oil to refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section, for processing or use in such refineries and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under leases issued pursuant to this Act, amended: *Provided further,* That in selling such royalty oil the Secretary of the Interior may at his discretion prorate such oil such refineries in the area in which the oil is produced: *Provided, however,* That pending the making of a permanent

contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: *And provided further,* That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

Notwithstanding the provisions of the previous paragraph, any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary of the exploration production and development of oil and gas on Federal lands, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) after prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonable in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.

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SECTION 1003 OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

[PROHIBITION ON DEVELOPMENT

[SEC. 1003. Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.]

SECTION 7 OF THE NORTH AMERICAN WETLANDS CONSERVATION ACT

SEC. 7. AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) * * *

* * * * * * *

(e) FISH AND WILDLIFE COMMISSION FUNDING.—In addition to the amounts made available under subsections (a), (b), and (c) of this section, the Council may receive funds from the Fish and Wildlife Commission to carry out the purposes of this Act. Use of such funds shall not be subject to the cost allocation requirements of section 8 of this Act.

ACT OF AUGUST 9, 1955

[AN ACT To authorize the Secretary of the Interior to investigate and report to the Congress on projects for the conservation, development, and utilization of the water resources of Alaska.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purpose of encouraging and promoting the development of Alaska, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make investigations of projects for the conservation, development, and utilization of the water resources of Alaska and to report thereon, with appropriate recommendations, from time to time, to the President and to the Congress.

[SEC. 2. Prior to the transmission of any such report to the Congress, the Secretary shall transmit copies thereof for information and comment to the Governor of Alaska, or to such representative as may be named by him, and to the heads of interested Federal departments and agencies. The written views and recommendations of the aforementioned officials may be submitted to the Secretary within ninety days from the day of receipt of said proposed report. The Secretary shall immediately thereafter transmit to the Congress, with such comments and recommendations as he deems appropriate, his report, together with copies of the views and recommendations received from the aforementioned officials. The letter of transmittal and its attachments shall be printed as a House or Senate document.

[SEC. 3. There are hereby authorized to be appropriated not more than $250,000 in any one fiscal year.]

SECTION 302 OF THE DEPARTMENT OF ENERGY ORGANIZATION ACT

TRANSFERS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 302. (a)(1) There are hereby transferred to, and vested in, the Secretary all functions of the Secretary of the Interior under section 5 of the Flood Control Act of 1944, and all other functions of the Secretary of the Interior, and officers and components of the Department of the Interior, with respect to—

(A) the Southeastern Power Administration;

(B) the Southwestern Power Administration;

[(C) the Alaska Power Administration;]

[(D)] *(C)* the Bonneville Power Administration including but not limited to the authority contained in the Bonneville Project Act of 1937 and the Federal Columbia River Transmission System Act;

[(E)] *(D)* the power marketing functions of the Bureau of Reclamation, including the construction, operation, and maintenance of transmission lines and attendant facilities; and

[(F)] *(E)* the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.

(2) The Southeastern Power Administration, the Southwestern Power Administration, [the Bonneville Power Administration, and the Alaska Power Administration] *and the Bonneville Power Administration* shall be preserved as separate and distinct organizational entities within the Department. Each such entity shall be headed by an Administrator appointed by the Secretary. The functions transferred to the Secretary in paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) shall be exercised by the Secretary, acting by and through such Administrators. Each such Administrator shall maintain his principal office at a place located in the region served by his respective Federal power marketing entity.

* * * * * * *

HELIUM ACT

[SEC. 3. (a) For the purpose of conserving, producing, buying, and selling helium, the Secretary is authorized—

[(1) to acquire by purchase, lease, gift, exchange, or eminent domain, lands or interests therein or options thereon, including but not limited to sites, rights-of-way, and oil or gas leases containing obligations to pay rental in advance or damages arising out of the use and operation of such properties; but any such land or interest in lands may be acquired by eminent domain only when the Secretary determines (A) that he is unable to make a satisfactory agreement to acquire such land or interest in land, and (B) that such acquisition by eminent domain is necessary in the national interest;

[(2) to make just and reasonable contracts and agreements for the acquisition, processing, transportation, or conservation of helium, helium-bearing natural gas, or helium-gas mixtures upon such terms and conditions, and for such periods, not exceeding 25 years, as may be necessary to accomplish the purposes of the Act, except that the Secretary shall not make such contracts and agreements which shall require payments by the Government in any one fiscal year aggregating more than the amount which shall be established initially in an appropriation Act and which may be increased from time to time in appropriation Acts, or if the Secretary—

[(A) determines that the national interests require the conservation of certain helium or require certain helium-bearing natural gas or certain helium-gas mixture for the production or conservation of helium, and

[(B) determines that he is unable to acquire such helium, helium-bearing natural gas, or helium-gas mixture upon reasonable terms and at the fair market value,

he is authorized to acquire by eminent domain such helium and so much of such helium-bearing natural gas or helium-gas mixture as is necessarily consumed in the extraction of such helium after removal from its place of deposit in nature and wherever found, or the temporary use of such helium-bearing natural gas or helium-gas mixture for the purpose of extracting helium, together with the appropriate interest in pipelines, equipment, installations, facilities, personal or real property,

including reserves, easements or other rights necessary or incident to the acquisition of such helium, natural gas, or mixture, but the condemnation of any such helium, helium-bearing natural gas, or helium-gas mixture, shall be effected in the same manner and following the procedures established in section 8(a) of this Act, the just compensation for such condemnation to be measured by terms and prices determined to be commensurate with the fair market value, and in the temporary use of any helium-bearing natural gas or helium-gas mixture for the purpose of extracting helium the Secretary shall cause no delay in the delivery of natural gas to the owner, purchaser, or purchasers thereof, except that required by the extractive processes;

[(3) to construct or acquire by purchase, lease, exchange, gift or eminent domain, plants, wells, pipelines, compressor stations, camp buildings, and other facilities, for the production, storage, purification, transportation, purchase, and sale of helium, helium-bearing natural gas, and helium-gas mixtures: and to acquire patents or rights therein and reports of experimentation and research used in connection with the properties acquired or useful in the Government's helium operations;

[(4) to dispose of, by lease or sale, property, including wells, lands, or interests therein, not valuable for helium production, and oil, gas, and byproducts, of helium operations not needed for Government use, except that property determined by the Secretary to be 'excess' within the meaning of section 3(e) of the Federal Property and Administrative Services Act of June 30, 1949 (60 Stat. 378; 40 U.S.C. 472(e)), as amended, shall be disposed of in accordance with the provisions of that Act; and to issue leases to the surface of lands or structures thereon for grazing or other purposes when the same may be done without interfering with the production of helium; and

[(5) to accept equipment, money, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

[(b) Any known helium-gas-bearing land on the public domain not covered at the time by leases or permits under the Mineral Lands Leasing Act of February 25, 1920, as amended, may be reserved for the purposes of this Act, and any reservation of the ownership of helium may include the right to extract, or have extracted, such helium, under such rules and regulations as may be prescribed by the Secretary, from all gas produced from lands so permitted, leased, or otherwise granted for development, except that in the extraction of helium from gas produced from such lands, it shall be extracted so as to cause no delay, except that required by the extraction process, in the delivery of gas produced from the well to the purchaser or purchasers thereof at the point of delivery specified in contracts for the purchase of such gas. If any reserved rights of ownership and extraction of helium are not exercised before production of any helium-bearing natural gas or any helium-gas mixture, the Secretary is authorized to acquire such helium in accordance with section 3(a)(2) of this Act.

[(c) All contracts and agreements made by the Secretary for the acquisition of helium from a private plant shall contain a provision

precluding the plant owner from selling any helium to any purchaser other than the Secretary at a price lower than the lowest price paid by any Government agency for helium acquired from any private plant under any contract entered into pursuant to this section and outstanding at the time of such sale.

[SEC. 4. The Secretary is authorized to maintain and operate helium production and purification plants together with facilities and accessories thereto; to acquire, store, transport, sell, and conserve helium, helium-bearing natural gas, and helium-gas mixtures, to conduct exploration for and production of helium on and from the lands acquired, leased, or reserved; and to conduct or contract with public or private parties for experimentation and research to discover helium supplies and to improve processes and methods of helium production, purification, transportation, liquefaction, storage, and utilization: *Provided, however,* That all research contracted for, sponsored, cosponsored, or authorized under authority of this Act shall be provided for in such a manner that all information, uses, products, processes, patents and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public: *And provided further,* That nothing contained herein shall be construed as to deprive the owner of any background patent relating thereto to such rights as he may have thereunder.

[SEC. 5. (a) Whenever the President determines that the defense, security, and general welfare of the United States requires such action, the Secretary shall issue such regulations as he deems necessary for the licensing of sales and transportation of helium in interstate commerce after extraction from helium-bearing natural gas or helium-gas mixtures. Thereafter it shall be unlawful for any person to sell or transfer helium in interstate commerce except in accordance with such regulations or pursuant to the terms of a license issued by the Secretary, or in accordance with the terms of a contract or agreement with the Secretary entered into pursuant to this Act. For the purpose of this section, the term 'helium' shall mean helium, after extraction from helium-bearing natural gas or helium-gas mixtures, in a refined or semirefined state suitable for use.

[(b) Each license shall be issued for a specified period to be determined by the Secretary, but not exceeding 5 years, and may be renewed by the Secretary upon the expiration of such period. No such license shall be issued to a person if in the opinion of the Secretary the issuance of a license to such person would be inimical to the defense and security of the United States. No such license shall be assigned or otherwise transferred directly or indirectly except with the consent or approval of the Secretary in writing. Any such license may be revoked for any material false statement in the application for license, or for violation or a failure to comply with the terms and provisions of this Act, the regulations issued by the Secretary pursuant thereto, or the terms of the license.

[(c) In issuing licenses under this section, the Secretary shall impose such regulations and terms of licenses as will permit him effectively to promote the common defense and security as well as

the general welfare of the United States. The licensing authority herein granted shall be used solely for the purpose of preventing the transportation or sale of helium for end uses determined by the Secretary to be nonessential or wasteful, and any determination that any end use is nonessential or wasteful shall be published in the form of general regulations applicable to all transportation or sales of helium.

[(d) Whenever Congress or the President declares that a war or national emergency exists, the Secretary is authorized to suspend any license granted under this Act if in his judgment such suspension is necessary to the defense and security of the United States, and he is further authorized to take such steps as may be necessary to recapture or reacquire supplies of helium.]

SEC. 3. AUTHORITY OF SECRETARY.

(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Privatization Act of 1995 except to the extent that such agreements are renewed or extended after such date.

(b) STORAGE, TRANSPORTATION, AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

(a) STORAGE, TRANSPORTATION, AND WITHDRAWAL.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective 18 months after the date of enactment of the Helium Privatization Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other

activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Privatization Act of 1995, except those activities described in subsection (a). The amount of helium reserves owned by the United States and stored in the Bureau of Mines Cliffside Field at such date of cessation, less 600,000,000 cubic feet, shall be the helium reserves owned by the United States required to be sold pursuant to section 8(b) hereof.

(c) DISPOSAL OF FACILITIES.—(1) Within two years after the date on which the Secretary ceases producing, refining and marketing refined helium and ceases all other activities relating to helium in accordance with subsection (b), the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

(2) All proceeds acquiring to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium or any equipment needed to maintain the purity, quality control, and quality assurance of helium in the reserve.

(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Privatization Act of 1995 shall remain in force and effect until the date of which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).

SEC. 6. (a) The Department of Defense, the Atomic Energy Commission, and other agencies of the Federal Government, to the extent that supplies are readily available, shall purchase all major requirements of helium [from the Secretary] *from persons who have entered into enforceable contracts to purchase an equivalent of crude helium from the Secretary.*

(b) The Secretary is authorized to sell *crude* helium for Federal, medical, scientific, and commercials uses in such quantities and

under such terms and conditions as he determines. *Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as well disrupt the market price of crude helium.*

(c) Sales of *crude* helium by the Secretary shall be at prices established by him which shall be adequate to cover all costs incurred in carrying out the provisions of this Act and to repay to the United States by deposit in the Treasury, [together with interest as provided in subsection (d) of this section, the following:

[(1) Within 25 years from the date of enactment of the Helium Act Amendments of 1960, the net capital and retained earnings of the helium production fund (established under section 3 of this Act prior to amendment by the Helium Act Amendments of 1960), determined by the Secretary as of such date of enactment, plus any moneys expended thereafter by the Department of the Interior from funds provided in the Supplemental Appropriation Act, 1959, for construction of a helium plant at Keyes, Oklahoma;

[(2) Within 25 years from the date of borrowing, all funds borrowed, as provided in section 12 of this Act, to acquire and construct helium plants and facilities; and

[(3) Within 25 years from the date of enactment of the Helium Act Amendments of 1960, unless the Secretary determines that said period should be extended for not more than ten years, all funds borrowed, as provided in section 12 of this Act, for all purposes other than those specified in clause (2) above.] *all funds required to be repaid to the United States as of October 1, 1995, under this section (hereinafter referred to as "repayable amounts"). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:*

(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.

[(d) Compound interest on the amounts specified in clauses (1), (2), and (3) of subsection (c) which have not been paid to the Treasury shall be calculated annually at rates determined by the Secretary of the Treasury taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the investments authorized by this Act, except that the interest rate on the amounts specified in clause (1) of subsection (c) shall be determined as of the date of enactment of the Helium Act Amendments of 1960, and the interest rate on the obligations specified in clauses (2) and (3) of subsection (c) as of the time of each borrowing.

[(e) Helium shall be sold for medical purposes at prices which will permit its general use therefor; and all sales of helium to non-Federal purchasers shall be upon condition that the Federal Government shall have a right to repurchase helium so sold that has

not been lost or dissipated, when needed for Government use, under terms and at prices established by regulations.]

(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.

(f)*(1)* All moneys received under this Act, including moneys from sale of helium or other products resulting from helium operations and from the sale of excess property shall be credited to the helium production fund, which shall be available without fiscal year limitation, for carrying out the provisions of this Act, including any research relating to helium carried out by the Department of the Interior. Amounts accumulating in said fund in excess of amounts the Secretary deems necessary to carry out this Act and contracts negotiated hereunder shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.

(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.

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[SEC. 8. (a) Proceedings for the condemnation of any property under section 3 of this Act shall be instituted and maintained pursuant to the provisions of the Act of August 1, 1888 (25 Stat. 357; 40 U.S.C. 257), as amended, and sections 1358 and 1403 of title 28 of the United States Code, or any other Federal statute applicable to the acquisition of real property by eminent domain. The Acts of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a–258e), and October 21, 1942 (56 Stat. 797; 40 U.S.C. 258f), shall be applicable to any such proceedings. Wherever the words "real property", "realty", "land", "easement", "right-of-way", or words of similar meaning, are used in such code provisions or Acts relating to procedure, jurisdiction, and venue, they shall be deemed, for the purposes of this Act, to include any personal property authorized to be acquired hereunder.

[(b) In the event of disposal under section 3(a)(4) of this Act of any property acquired by eminent domain pursuant to this Act, the former owner or successor in interest of the rights therein shall have the preferential right to reacquire such property on terms as favorable as those terms whereby disposition may be made under such section.]

SEC. 8. ELIMINATION OF STOCKPILE.

(a) REVIEW OF RESERVES.—The Secretary shall review annually the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves

(other than Federally owned helium stored at the Cliffside Reservoir) at that time.

(b) STOCKPILE SALES.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such minimum annual amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet (mcf) on a straight-line basis between such date and January 1, 2015: Provided, That the minimum price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c), and provided further that the minimum annual sales requirement may be deferred only if, and to the extent that, the Secretary is unable to arrange sales at the minimum price. The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, are necessary to carry out this subsection with minimum market disruption.

(c) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b), as the case may be.

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[SEC. 12. (a) The Secretary is authorized to borrow annually from the Treasury and credit to the fund established under section 6(f) of this Act such amounts as may be authorized in the initial appropriation Act and which may be increased from time to time in appropriation Acts and as are necessary to carry out the provisions of this Act and contractual obligations hereunder.

[(b) For the purpose of this section the Secretary may issue to the Secretary of the Treasury notes, debentures, bonds, or other obligations to be redeemable at the option of the Secretary before maturity in such manner as may be stipulated in such obligations. The Secretary of the Treasury is authorized and directed to purchase any obligations issued by the Secretary under authority of this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of obligations of the Secretary hereunder.]

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[SEC. 15. It is the sense of the Congress that it is in the national interest to foster and encourage individual enterprise in the development and distribution of supplies of helium, and at the same time provide, within economic limits, through the administration of this Act, a sustained supply of helium which, together with supplies available or expected to become available otherwise, will be sufficient to provide for essential Government activities.]

SEC. 16. *(a)* The Secretary of the Interior is directed to report annually to the Congress on the matters contained in this Act.

(b)(1) The Inspector General of the Department of the Interior shall cause to be prepared, not later than March 31 following each fiscal year commencing with the date of enactment of the Helium Privatization Act of 1995, annual financial statements for the Helium Operations of the Bureau of Mines. The Director of the Bureau of Mines shall cooperate with the Inspector General in fulfilling this requirement, and shall provide him with such personnel and accounting assistance as may be necessary for that purpose. The financial statements shall be audited by the General Accounting Office, and a report on such audit shall be delivered by the General Accounting Office to the Secretary of the Interior and Congress, not later than June 30 following the end of the fiscal year for which they are prepared. The audit shall be prepared in accordance with generally accepted government auditing standards.

(2) The financial statements shall be comprised of the following:

(A) A balance sheet reflecting the overall financial position of the Helium Operations, including assets and liabilities thereof;

(B) the Statement of Operations, reflecting the fiscal period results of the Helium Operations;

(C) a statement cash flows or changes in financial position of the Helium Operations; and

(D) a reconciliation of budget reports of the Helium Operations.

(3) The Statement of Operations shall include but not be limited to the revenues from, and costs of, sales of crude helium, the storage and transportation of crude helium, the production, refining and marketing of refined helium, and the maintenance and operation of helium storage facilities at the Bureau of Mines Cliffside Field. The term "revenues" for this purpose shall exclude (A) royalties paid to the United States for production of helium or other extraction of resources, except to the extent that the Helium Operations incur direct costs in connection therewith, and (B) proceeds from sales of assets other than inventory. The term "expenses" shall include, but not be limited to (i) all labor costs of the Bureau of Mines Helium Operations, and of the Department of the Interior in connection therewith, and (ii) for financial reporting purposes but not in connection with the determination of sales prices in section 6(c), all current-period interest on outstanding repayable amounts (as described in section 6(c)) calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.

(4) The balance sheet shall include, but not be limited to, on the asset side, the present discounted market value of crude helium reserves; and on the liability side, the accrued liability for principal and interest on debt to the United States. For financial reporting purposes but not connection with the determination of sales prices in section 6(c), the balance sheet shall also include accrued but unpaid interest on outstanding repayable amounts (as described in section 6(c)) through the date of the report, calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.

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SECTION 505 OF THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT OF 1933

[SEC. 505. Notwithstanding any other provision of this Act, subsequent Energy and Water Development Appropriations Acts or any other provision of law hereafter, none of the funds made available under this Act, subsequent Energy and Water Development Appropriations Acts or any other law hereafter shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.]

SECTION 6 OF THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION GRAND COULEE DAM SETTLEMENT ACT

[SEC. 6. REPAYMENT CREDIT.

[Beginning with fiscal year 2000 and continuing for so long as annual payments are made under this Act, the Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds as defined in section 13 of the Federal Columbia River Transmission System Act, an amount equal to 26 percent of the payment made to the Tribe for the prior fiscal year. Each deduction made under this section shall be a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made, and shall be allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during that fiscal year; except that, if the deduction in any fiscal year is greater than the interest due on debt associated with the generation function for that fiscal year, then the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during that fiscal year. To the extent that the deduction exceeds the total amount of any such interest, the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary.]

SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

(a) IN GENERAL.—So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.

(b) DEFINITIONS.—For the purposes of this section—

(1) The term "settlement agreement" means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

(2) The term "Tribes" means the Confederated Tribes of the Colville Reservation, a Federally recognized Indian Tribe.

SECTION 210 OF THE CENTRAL UTAH PROJECT COMPLETION ACT

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. ❚In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.❚ *The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.*

SECTION 7 OF THE ACT OF DECEMBER 19, 1913

CHAP. 4.—An Act Granting to the city and county of San Francisco certain rights of way in, over, and through certain public lands, the Yosemite National Park, and Stanislaus National Forest, and certain lands in the Yosemite National Park, the Stanislaus National Forest, and the public lands in the State of California, and for other purposes.

SEC. 7. That for and in consideration of the grant by the United States as provided for in this Act the said grantee shall assign, free of cost to the United States, all roads and trails built under the provisions hereof; and further, after the expiration of 5 years from the passage of this Act the grantee shall pay to the United States the sum of $15,000 annually for a period of 10 years, beginning with the expiration of the 5-year period before mentioned, and for

the next ten years following $20,000 annually, and for the remainder of the term of the grant shall, unless in the discretion of Congress the annual charge should be increased or diminished, pay the sum of [$30,000] *$8,000,000* annually, said sums to be paid on the first day of July of each year. [Until otherwise provided by Congress, said sums shall be kept in a separate fund by the United States, to be applied to the building and maintenance of roads and trails and other improvements in the Yosemite National Park and other national parks in the State of California. The Secretary of the Interior shall designate the uses to be made of sums paid under the provisions of this section under the conditions specified herein.] *These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.*

ACT OF OCTOBER 9, 1965

[AN ACT Relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1), which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purposes of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards, against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

[SEC. 2. Subject to the findings and policy stated in section 1 of this Act, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to a "concessioners") to provide and operate facilities and services which he deems desirable of the accommodation of visitors in areas administered by the National Park Service.

[SEC. 3. (a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies,

and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

[(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

[(c) The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

[(d) Franchise fees, however, states, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every 5 years unless the contract is for a lesser period of time.

[Sec. 4. The Secretary may authorize the operation of all accommodations facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

[SEC. 5. The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or

surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 4 of this Act, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

[SEC. 6. A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinghished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the Secretary determines that equitable considerations warrant recognition of such interest.

[SEC. 7. The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)), relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in area administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, or the Act of August 21, 1935, chapter 593 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

[SEC. 8. Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings, and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by changing the proviso therein to read as follows: "*Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids."

[SEC. 9. Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully

performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

[The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or subconcessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved.]

ACT OF MARCH 4, 1915

CHAP. 144.—An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and sixteen.

* * * * * * *

FOREST SERVICE

* * * * * * *

[The Secretary of Agriculture is authorized, under such regulations as he may make and upon such terms and conditions as he may deem proper, (a) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining hotels, resorts, and any other structures of facilities necessary or desirable for recreation, public convenience, or safety; (b) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding five acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining summer homes and stores; (c) to permit the use and occupancy of suitable areas of land within the national forest, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining buildings, structures, and facilities for industrial or commercial purposes whenever such use is related to or consistent with other uses on the national forests; (d) to permit any State or political subdivision thereof, or any public or nonprofit agency, to use and occupy suitable areas of land within the national forests not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining any buildings, structures, or facilities necessary or desirable for education or for any public use or in connection with any public activity. The authority provided by this paragraph shall be exercised in such manner as not to preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests.]

* * * * * * *

ACT OF APRIL 24, 1950

AN ACT To facilitate and simplify the work of the Forest Service, and for other purposes.

* * * * * * *

[SEC. 7. The Secretary of Agriculture, under such regulations as he may prescribe and at rates and for periods not exceeding thirty years as determined by him, is hereby authorized to permit the use by public and private agencies, corporations, firms, associations, or individuals, of structures or improvements under the administrative control of the Forest Service and land used in connection therewith: *Provided*, That as all or a part of the consideration for permits issued under this section, the Secretary may require the permittees at their expense to recondition and maintain the structures and land to a satisfactory standard.]

* * * * * * *

SECTION 3 OF THE ACT OF AUGUST 25, 1916

CHAP. 408.—An Act To Establish a National Park Service, and for other purposes.

SEC. 3. That the Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violation of any of the rules and regulations authorized by this Act shall be punished by a fine of not more than $500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all cost of the proceedings. He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. [He may also grant privileges, leases, and permits for the use of land for the accommodation of visitors in the various parks, monuments, or other reservations herein provided for, but for periods not exceeding thirty years; and no] *No* natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: *Provided, however,* That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze livestock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park *And provided further,* That the Secretary of the Interior may grant said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corpora-

tions without advertising and without securing competitive bids: *And provided further,* That no contract, lease, permit, or privilege granted shall be assigned or transferred by such grantees, permittees, or licensees, without the approval of the Secretary of the Interior first obtained in writting: *And provided further,* That the Secretary may, in his discretion, authorize such grantees, permittees, or licensees to execute mortgages and issue bonds, shares to stock, and other evidences of interest in or indebtedness upon their rights, properties, and franchises, for the purposes of installing, enlarging, or improving plant and equipment and extending facilities for the accommodation of the public within such national parks and monuments.

SECTION 4 OF THE ACT OF DECEMBER 22, 1944

AN ACT Authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes.

SEC. 4. The Chief of Engineers, under the supervision of the Secretary of the Army, is authorized to construct, maintain, and operate public park and recreational facilities at water resource development projects under the control of the Department of the Army, to permit the construction of such facilities by local interests (particularly those to be operated and maintained by such interests), and to permit the maintenance and operation of such facilities by local interests. The Secretary of the Army is also authorized to grant leases of lands, including structures or facilities thereon, at water resource development projects for such periods, and upon such terms and for such purposes as he may deem reasonable in the public interest, *except for commercial concessions purposes: Provided,* That leases to nonprofit organizations for park or recreational purposes may be granted at reduced or nominal considerations in recognition of the public service to be rendered in utilizing the leased premises: *Provided further,* That preference shall be given to Federal, State, or local governmental agencies, and licenses or leases where appropriate, may be granted without monetary considerations, to such agencies for the use of all or any portion of a project area for any public purpose, when the Secretary of the Army determines such action to be in the public interest, and for such periods of time and upon such conditions as he may find advisable: *And provided further,* That in any such lease or license to a Federal, State, or local governmental agency which involves lands to be utilized for the development and conservation of fish and wildlife, forests, and other natural resources, the licensee or lessee may be authorized to cut timber and harvest crops as may be necessary to further such beneficial uses and to collect and utilize the proceeds of any sales of timber and crops in the development, conservation, maintenance, and utilization of such lands. Any balance of proceeds not so utilized shall be paid to the United States at such time or times as the Secretary of the Army may determine appropriate. The water areas of all such projects shall be open to public use generally for boating, swimming, bathing, fishing, and other recreational purposes, and ready access to and exit from such areas along the shores of such projects shall be maintained for general public use, when such use is determined by the

Secretary of the Army not to be contrary to the public interest, all under such rules and regulations as the Secretary of the Army may deem necessary. No use of any area to which this section applies shall be permitted which is inconsistent with the laws for the protection of fish and game of the State in which such area is situated. All moneys received by the United States for leases or privileges shall be deposited in the Treasury of the United States as miscellaneous receipts.

NATIONAL FOREST SKI AREA PERMIT ACT OF 1986

* * * * * * *

SEC. 4. SKI AREA PERMIT FEES.

(a) SKI AREA PERMIT FEE.—

(1) IN GENERAL.—Except as provided by paragraph (2), after the date of the enactment of this section, the fee for all ski area permits on National Forest System lands shall be calculated, charged, and paid only as set forth in subsection (b).

(2) EXCEPTION.—Paragraph (1) does not apply to any ski area where the existing permit in effect on the date of enactment of this section specifies a different method to calculate the fee. In any such situation the terms of such permit shall prevail, unless the permit holder notifies the Forest Service that the permit holder agrees to adopt the method of fee calculation specified in this section. The Forest Service should encourage such permit holders to consider adopting the new method of fee calculation in order to reduce its administrative costs.

(b) METHOD OF CALCULATION.—

(1) DETERMINATION OF ADJUSTED GROSS REVENUE SUBJECT TO FEE.—The Secretary of Agriculture shall calculate the ski area permit fee to be charged a ski area permittee by first determining the permittee's adjusted gross revenue to be subject to the permit fee. The permittee's adjusted gross revenue is equal to the sum of the following:

(A) The permittee's gross revenues from alpine lift ticket and alpine season pass sales plus revenue from alpine ski school operations, with such total multiplied by the permittee's slope transport feet percentage on National Forest System lands.

(B) The permittee's gross revenues from nordic ski use pass sales and nordic ski school operations, with such total multiplied by the permittee's percentage of nordic trails on National Forest System lands.

(C) The permittee's gross revenues from ancillary facilities physically located on National Forest System lands, including all permittee or subpermittee lodging, food service, rental shops, parking, and other ancillary operations.

(2) DETERMINATION OF SKI AREA PERMIT FEE.—The Secretary shall determine the ski area permit fee to be charged a ski area permittee by multiplying adjusted gross revenue determined under paragraph (1) for the permittee by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000.

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000.

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000.

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

(3) SLOPE TRANSPORT FEET PERCENTAGE.—In cases where ski areas are only partially located on National Forest System lands, the slope transport feet percentage on national forest land referred to in paragraph (1) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992.

(4) ANNUAL ADJUSTMENT OF ADJUSTED GROSS REVENUE.—In order to insure that the ski area permit fee set forth in this subsection remains fair and equitable to both the United States and ski area permittees, the Secretary shall adjust, on an annual basis, the adjusted gross revenue figures for each revenue bracket in subparagraphs (A) through (D) of paragraph (2) by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

(c) MINIMUM FEE.—In cases where an area of National Forest System land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a), the permittee shall pay an annual minimum fee of $2 for each acre of National Forest System land under permit. Rental fees imposed under this subsection shall be paid at the time specified in subsection (d).

(d) TIME FOR PAYMENT.—The fee set forth in subsection (b) shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual, or other schedule as determined appropriate by the Secretary in consultation with the permittee. It is the intention of Congress that unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the enactment of this section. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual fee calculations brackets and rates) to be utilized for fee calculation and submitted with the fee payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(e) DEFINITIONS.—To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms "revenue" and "sales" mean actual income from sales. Such terms do not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

(f) EFFECTIVE DATE FOR FEES.—The ski area permit fees as provided under this section shall become effective on July 1, 1996, and cover receipts retroactive to July 1, 1995. If a ski area permittee has paid fees for the 12-month period ending on June 30, 1996, under the graduated rate fee system formula in effect prior to the date of the enactment of this section, such fees shall be credited toward the new ski area permit fee due for that period under this section.

(g) REPORT ON FAIR MARKET VALUE.—No later than five years after the date of enactment of this section and every 10 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committees of Agriculture and Resources of the United States House of Representatives a report analyzing whether the ski area permit fee system legislated by this section is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

(h) TRANSITION PERIOD.—Where the new fee provided for in this section results in an increase in permit fee greater than one percent of the permittee's adjusted gross revenue (as defined in subsection (b)(1)), the new fee shall be phased in over a three year period in a manner providing for increases of approximately equal increments.

(i) APPLICABILITY OF NEPA TO REISSUANCE OF SKI AREA PERMITS.—The reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on, or after the date of the enactment of this section pursuant to the authority of the Act of March 4, 1915 (16 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et seq.), or section 3 of this Act are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal of the permit. Such withdrawal shall be canceled automatically upon expiration or other termination of the permit unless, at the request of the Secretary of Agriculture, the Secretary of the Interior determines to continue the withdrawal. Upon cancellation of the withdrawal, the land shall be automatically restored to all appropriation not otherwise restricted under the public land laws.

ACT OF MARCH 24, 1976

Joint Resolution To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes.

* * * * * * *

[SEC. 3. Pursuant to section 701 of the foregoing Covenant, enactment of this section shall constitute a commitment and pledge of the full faith and credit of the United States for the payment of $228 million at guaranteed annual amounts of direct grant assistance for the Government of the Northern Mariana Islands for an additional period of seven fiscal years after the expiration of the initial seven-year period specified in section 702 of said Covenant, which assistance shall be provided according to the schedule of payments contained in the Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands. The islands of Rota and Tinian shall each receive no less than a ⅛ share and the island of Saipan shall receive no less than a ¼ share of annualized capital improvement project funds, which shall be no less than 80 per centum of the capital development funds identified in the schedule of payments in paragraph 2 of part II of the Agreement of the Special Representatives. Funds shall be granted according to such regulations as are applicable to such grants.

[SEC. 4. (a) Section 704(c) of the foregoing Covenant shall not apply to the Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act.

[(b) Upon the expiration of the period of Federal financial assistance which is provided to the Government of the Northern Mariana Islands pursuant to section 3 of this Act, payments of direct grant assistance shall continue at the annual level provided for the last fiscal year of the additional period of seven fiscal years until Congress otherwise provides by law.]

SEC. 5. Should the Secretary of the Interior believe that the performance standards of the [agreement identified in section 3 of this Act] *Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands* are not being met, he shall notify the Government of the Northern Mariana Islands in writing with the intent to resolve such issue in a mutually agreeable and expeditious manner and notify the [Committee on Interior and Insular Affairs] *Committee on Resources* of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Should the issue not be resolved within thirty days after the notification is received by the Government of the Northern Mariana Islands, the Secretary of the Interior may request authority from Congress to withhold payment of an appropriate amount of the operations funds identified in the schedule of payments in paragraph 2 of part II of the Agreement of the Special Representatives for a period of less than one year but no funds shall be withheld except by Act of Congress.

SECTION 5315 OF TITLE 5, UNITED STATES CODE

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

Assistant Administrators, Agency for International Development (6).

* * * * * * *

[Assistant Secretaries of the Interior (6).]

Assistant Secretaries of the Interior (5)

* * * * * * *

ACT OF JULY 23, 1995

AN ACT To exclude deposits of petrified wood from appropriation under the United States mining laws.

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SEC. 3. *(a)* Not deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so at to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this Act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension to two inches or more. "Petrified wood" as used in this Act means agatized, opalized, petrified, or silicified wood, or any material formed by the replacement of wood by silica or other matter.

(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

(2) For purposes of paragraph (1), the term "valid existing rights" means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery

of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.

SEC. 4. (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative *and mineral material* surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to sue so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further,* That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further,* That nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim.

(c) Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative *and mineral material* or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

* * * * * * *

SEC. 8. This Act may be cited as the "Surface Resources Act of 1995".

ACT OF JULY 31, 1947

AN ACT To provide for the disposal of materials on the public lands of the United States.

SECTION 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to [common varieties of] the following: sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including, for the purposes of this Act, land described in the Acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including, but not limited to, the Act of June 28, 1934 (48 Stat. 1269), as amended, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however,* That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

SEC. 2. (a) The Secretary shall dispose of materials under this Act to the highest responsible qualified bidder after formal advertising and such other public notice as he deems appropriate: *Provided, however,* That the Secretary may authorize negotiation of a contract for the disposal of materials if—

(1) the contract is for the sale of less than two hundred fifty thousand board-feet of timber; or, if

(2) the contract is for the disposal of materials to be used in connection with a public works improvement program on behalf of a Federal, State, or local governmental agency and the

public exigency will not permit the delay incident to advertising; or, if

(3) the contract is for the disposal of property for which it is impractical to obtain competition[.] *or, if*

(4) the material is a mineral material.

(b) IDENTIFIED DEPOSITS.—(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease under this section shall also be subject to disposition by lease under this Act by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.

(2) All leases will be conditioned upon—

(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and

(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.

(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods.

(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

(C) The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.

(c) OTHER LANDS.—(1) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.

(2) The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the

prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

(3) Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior.

* * * * * * *

SEC. 5. This Act may be cited as the "Materials Act of 1947".

ACT OF AUGUST 4, 1892

(Commonly known as the "Building Stone Act")

[CHAP. 375.—An act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: *Provided,* That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this act.

[SEC. 2. That an act entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and Washington Territory," approved June third, eighteen hundred and seventy-eight, be, and the same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory" where the same occur in the second and third lines of said act, and insert in lieu thereof the words, "public-land States," the purpose of this act being to make said act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

[SEC. 3. That nothing in this act shall be construed to repeal section twenty-four of the act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one.]

ACT OF JANUARY 31, 1901

(Commonly known as the "Saline Placer Act")

[CHAP. 186.—An Act Extending the mining laws to saline lands.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer-mining claims: *Provided,* That the same person shall not locate or enter more than one claim hereunder.]

ACT OF SEPTEMBER 2, 1958

AN ACT To clarify the requirements with respect to the performance of labor imposed as a condition for the holding of mining claims on Federal lands pending the issuance of patents therefor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "labor", as used in the third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28), shall include, without being limited to *mineral activities, environmental baseline monitoring, and,* geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. [Such] *Airborne* surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

SEC. 2. As used in this Act,

(a) The term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(b) The term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(c) The term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods of measuring physical differences between rock types or discontinuities in geological formations;

(d) The term "qualified expert" means an individual qualified by education or experience to conduct *environmental baseline monitoring or* geological, geochemical or geophysical surveys, as the case may be.

(e) The term "environmental baseline monitoring" means activities for collecting, reviewing and analyzing information concerning soil,

vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).

OMNIBUS BUDGET RECONCILIATION ACT OF 1993

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TITLE X—NATURAL RESOURCE PROVISIONS

* * * * * * *

Subtitle B—Hardrock Mining Claim Maintenance Fee

[SEC. 10101. FEE.

[(a) CLAIM MAINTENANCE FEE.—The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States, whether located before or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of $100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).

[(b) TIME OF PAYMENT.—The claim maintenance fee payable pursuant to subsection (a) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under section 10102 shall be payable not later than 90 days after the date of location.

[(c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

[(d) WAIVER.—(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

[(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

[(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28–28e) to maintain the mining claims held by the claimant and such related parties for the as-

sessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

[(2) For purposes of paragraph (1), with respect to any claimant, the term "related party" means—

[(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

[(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

[SEC. 10102. LOCATION FEE.

[Notwithstanding any other provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this subtitle and before September 30, 1998, pursuant to the Mining Laws of the United States, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the claim maintenance fee required by section 10101, of $25.00 per claim.]

* * * * * * *

SECTION 314 OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

RECORDATION OF MINING CLAIMS AND ABANDONMENT

SEC. 314. [(a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the 3-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

[(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28–1), relating thereto.

[(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.]

* * * * * * *

[(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an

abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.]

(c) FAILURE TO FILE AS CONSTITUTING FORFEITURE; DEFECTIVE OR UNTIMELY FILING.—The failure to timely file the copy of the notice or certificate of location as required by subsection (b) shall constitute forfeiture of the mining claim and such claim shall be null and void by operation of law; except that it shall not be considered a failure to file if the notice or certificate of location is defective or not timely filed for record under other State or Federal laws permitting or requiring the filing or recording thereof, or if the copy of the notice or certificate is filed by or on behalf of some but not all of the owners of the claim.

* * * * * * *

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

AN ACT To ensure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

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

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

Sec. 101. Duties of the Secretary.
Sec. 102. Duties of lessees, operators, and motor vehicle transporters.
Sec. 103. Required recordkeeping.

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Sec. 111. Royalty interest, penalties and payments.
Sec. 111A. Adjustments and refunds.
Sec. 112. Injunction and specific enforcement authority.
Sec. 113. Rewards.
Sec. 114. Noncompetitive oil and gas lease royalty rates.
Sec. 115. Limitation periods and agency actions.
Sec. 116. Alternatives for marginal properties.

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TITLE III—GENERAL PROVISIONS

Sec. 301. Secretarial authority.
Sec. 302. Reports.

Sec. 303. Study of other minerals.

* * * * * * *

[Sec. 307. Statute of limitations.]

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DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) * * *

* * * * * * *

[(7) "lessee" means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease;]

(7) "lessee" means any person to whom the United States, an Indian tribe, or an Indian allottee issues a lease or any person to whom operating rights have been assigned;

* * * * * * *

(15) "Secretary" means the Secretary of the Interior or his designee; [and]

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands[.];

(17) "adjustment" means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

(18) "administrative proceeding" means any agency process in which a demand, decision or order issued by the Secretary is subject to appeal or has been appealed;

(19) "assessment" means any fee or charge levied or imposed by the Secretary or the United States other than—

(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(B) any interest; or

(C) any civil or criminal penalty;

(20) "commence" means—

(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

(B) with respect to a demand, the receipt by the Secretary or a lessee of the demand;

(21) "credit" means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

(22) "demand" means—

(A) an order to pay issued by the Secretary; or

(B) a separate written request by a lessee which asserts an obligation due the lessee,

but does not mean any royalty or production report, or any information contained therein, required by the Secretary;

(23) "obligation" means—

(A) any duty of the Secretary or the United States—

(i) to take oil or gas royalty in kind; or

(ii) to pay, refund, offset, or credit monies including but not limited to—

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

(II) any interest;

(B) any duty of a lessee—

(i) to deliver oil or gas royalty in kind; or

(ii) to pay, offset or credit monies including but not limited to—

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(II) any interest;

(III) any penalty; or

(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

(24) "order to pay" means a written order issued by the Secretary or the United States which—

(A) asserts a definite and quantified obligation; and

(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication or action by or on behalf of the Secretary or the United States;

(25) "overpayment" means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

(26) "payment" means satisfaction, in whole or in part, of an obligation;

(27) "penalty" means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

(28) "refund" means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

(29) "State concerned" means, with respect to a lease, a State which receives a portion of royalties under this Act from such lease; and

(30) "underpayment" means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

SEC. 101. (a) * * *

* * * * * * *

(d)(1) For the purpose of reducing costs and increasing net royalties to the United States and the States, the Secretary, in consultation with States concerned, shall, within one year after the date of the enactment of this subsection, streamline and simplify current royalty management requirements and practices, including royalty reporting, instructions, audits and collections. This streamlining and simplification shall specifically include—

(A) elimination of all unnecessary royalty and production reports;

(B) modification and simplification of remaining reports and associated instructions to eliminate redundant or unnecessary reports and information that are provided or can be obtained from other required reports, forms, computer databases or government agencies;

(C) elimination or modifications of accounting, reporting, audit and collection requirements that are not cost-effective, particularly those associated with de minimis monetary amounts;

(D) implementation of specific recommendations and comments contained in Secretarial sponsored teams, rulemakings, and studies or those participated in by the Secretary to the extent these recommendations simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes;

(E) recommendations and comments submitted by interested parties to the extent these recommendations and comments simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes.

(2) The Secretary shall submit to the Congress a progress report on the implementation of this section within six months from date of enactment of this Act, and a final report within 12 months from date of enactment of this Act. These reports shall include—

(A) a description of the extent to which the Secretary has implemented the requirements in paragraph (1), including a list of specific initiatives implemented;

(B) a list and description of additional initiatives identified by the Secretary to simplify and streamline royalty management requirements and practices; and

(C) cost savings of implemented initiatives including impact on net-receipts sharing for States.

(3) If the Secretary and the State concerned determines that the cost of accounting and auditing for and collecting of any obligation due for any oil and gas production exceeds the amount of the obligation to be collected, the Secretary shall waive such obligation.

(4) The Secretary and the State concerned shall not perform accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting the activity exceeds the expected amount to be collected by the activity.

(5) The Secretary and the State concerned shall develop a reporting and audit strategy which eliminates multiple or redundant reporting of information.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102. [(a) A lessee—

[(1) who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary; and

[(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or under the mineral leasing laws.]

(a) A lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary. A lessee may designate a person to act on the lessee's behalf and shall notify the Secretary in writing of such designation. The person to whom the United States issues a lease or the person by whom operating rights are currently owned, but not both, shall remain primarily liable for its obligations.

* * * * * * *

REQUIRED RECORDKEEPING

SEC. 103. (a) * * *

* * * * * * *

(c) Records required by the Secretary for the purpose of determining compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under section 115(a). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in section 115.

* * * * * * *

HEARINGS AND INVESTIGATIONS

SEC. 107. (a) * * *

* * * * * * *

(c) RULES REGARDING ISSUANCE OF SUBPOENA RELATING TO REPORTING AND PAYMENT OF AN OBLIGATION DUE.—

(1) IN GENERAL.—A subpoena which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued under this section only by an Assistant Secretary of the Interior and an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

(2) PRIOR WRITTEN REQUEST REQUIRED.—A subpoena described in paragraph (1) may only be issued against a lessee during the limitation period provided in section 115 and only after the Secretary has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

(A) the lessee has failed to respond within a reasonable period of time to the Secretary's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act;

(B) the lessee has in writing denied the Secretary's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act; or

(C) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act after the Secretary's written request.

(3) REASONABLE PERIOD FOR COMPLIANCE WITH WRITTEN REQUEST.—In seeking records, the Secretary shall afford the lessee a reasonable period of time after a written request by the Secretary in which to provide such records prior to the issuance of any subpoena.

(d) RESTRUCTURED ACCOUNTING.—

(1) IN GENERAL.—The Secretary shall issue an order to perform a restructured accounting when the Secretary determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

(2) DELEGATION.—The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the "Associate Director for Royalty Management". An order to perform a restructured accounting shall—

(A) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

(B) specify the reasons and factual bases for such order; and

(C) be specifically identified as an "order to perform a restructured accounting".

(3) ORDER TO PERFORM.—An order to perform a restructured accounting shall not include any other communication or action by or on behalf of the Secretary or the United States.

(4) NOTICE.—If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

(e) PAPERWORK REDUCTION.—Administrative actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall be subject to section 3518(c)(1)(B) of title 44, United States Code.

* * * * * * *

CIVIL PENALTIES

SEC. 109. (a) * * *

* * * * * * *

(c) Any person who—

(1) [knowingly or willfully] *by willful misconduct or gross negligence* fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) [knowingly or willfully] *by willful misconduct or gross negligence* fails or refuses to comply with subsection 102(b)(3), shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.

(d) Any person who—

(1) [knowingly or willfully] *by willful misconduct or gross negligence* prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) [knowingly or willfully] *by willful misconduct or gross negligence* takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

* * * * * * *

ROYALTY INTEREST, PENALTIES AND PAYMENTS

SEC. 111. (a) * * *

* * * * * * *

[(f) Interest shall be charged under this section only for the number of days a payment is late.]

(f) Upon a determination that it will further the effective and efficient performance of his duties and responsibilities, the Secretary may waive or forego such interest in whole or in part. Interest shall be charged under this section only for the number of days a payment is late.

* * * * * * *

(h) Interest shall be allowed and the Secretary shall pay or credit such interest on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986. Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an "excessive overpayment" shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations as a result of judicial or administrative proceedings for settlement agreements and for other similar payments) for the aggregate of all of its Federal leases exceeds 25 percent of the total royalties paid that month for those leases.

(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection "estimated payment") that would otherwise be due to the Secretary for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties become due at the end of the month following the period covered by the estimated payment. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.

(k)(1) Except as otherwise provided by this subsection—

(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution must report and pay royalties on oil and

gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

(B) a lessee of a lease in any other unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

(C) a lessee of a lease that is not contained in a unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

(4) The Secretary shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term "marginal property" means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.

(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until

the end of the month following the month in which the determination is made.

(m)(1) After the date of enactment of this subsection, the Secretary shall not impose any assessment for any late payment or underpayment. After the date of enactment of this subsection, the Secretary may impose an assessment only for erroneous reports submitted by lessees subject to the limitations of paragraph (2). Nothing in this section shall prohibit the Secretary from imposing penalties or interest under other sections of this Act for late payments or underpayments.

(2) No assessment for erroneous reports shall be imposed for 18 months following the date of enactment of this subsection, or until the Secretary issues a final rule which provides for imposition of an assessment only on a lessee who chronically submits erroneous reports and which establishes what constitutes chronic errors for a lessee, whichever is later. However, if the Secretary determines during that 18-month period that the reporting error rate for all reporters for all Federal leases has increased by one-third for three consecutive report months for either production reporting or royalty reporting over the 12 months preceding the date of enactment of this subsection, the Secretary may impose an assessment for erroneous reports only for the increased category of report under regulations in effect on the date of enactment of this subsection.

SEC. 111A. ADJUSTMENTS AND REFUNDS.

(a) ADJUSTMENTS.—

(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary of an adjustment.

(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

(B) In the case of a lessee on whom the Secretary determines that subparagraph (A) would impose a hardship, the Secretary shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary shall allow a credit or refund in the amount of the overpayment.

(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall

be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

(b) REFUNDS.—

(1) IN GENERAL.—A request for refund is sufficient if it—

(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

(B) identifies the person entitled to such refund;

(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

(D) provides the reasons why the payment was an overpayment.

(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary and subject to the provisions of this Act.

(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.

* * * * * * *

SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.

(a) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred, except as otherwise provided by this section.

(b) OBLIGATION BECOMES DUE.—

(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

(2) ROYALTY OBLIGATIONS.—The right to enforce the royalty obligation for a production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

(3) ROYALTY PAYMENT.—The right to collect a royalty payment for an obligation for a production month for a lease is fixed for purposes of this Act on the last day of the second calendar month following the month in which gas is produced, to be phased in by the Secretary in a manner which does not have a negative impact on the Federal budget.

(c) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (a) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or the United States, other than the following:

(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

(2) SUBPOENA.—The issuance of a subpoena in accordance with the provisions of section 107(c) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (A) the lessee has produced such subpoenaed records for the subject obligation, (B) the Secretary receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (C) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

(3) FRAUD OR CONCEALMENT.—Any fraud or concealment by a lessee in an attempt to defeat or evade an obligation in which case the limitation period shall be tolled for the period of such fraud or such concealment.

(4) TOLLING REQUEST.—A written tolling request from a lessee based upon the lessee's representation that the lessee's entitlement to an overpayment has not been finally determined. The limitation period shall be tolled pursuant to this paragraph from the date the Secretary receives the tolling request until the earlier of the end of the requested period or 12 months after the date the Secretary receives the tolling request, but is subject to successive 12-month renewals by the lessee made prior to the expiration of the then applicable 12-month period. The tolling request shall be sufficient if it identifies—

(A) the person who made the potential overpayment;

(B) the leases and production months involved in the potential overpayment; and

(C) the reasons the lessee believes that it may later be entitled to a refund of the overpayment.

(5) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—The issuance of a notice under section 107(d)(4) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending on the date on which (A) the Secretary receives written notice the accounting or otherrequirement has been performed, or (B) a court has deter-

mined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

(d) TERMINATION OF LIMITATIONS PERIOD.—The limitations period shall be terminated in the event—

(1) the Secretary has notified the lessee in writing that a time period is closed to further audit; or

(2) the Secretary and a lessee have so agreed in writing.

(e) FINAL AGENCY ACTION.—

(1) 3-YEAR PERIOD.—The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, within three years from the date such proceeding was initiated or three years from the date of such enactment, whichever is later. The 3-year period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

(2) EFFECT OF FAILURE TO ISSUE DECISION.—

(A) IN GENERAL.—If no such decision has been issued by the Secretary within the three-year period referred to in paragraph (1)—

(i) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

(ii) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

(B) NO PRECEDENTIAL EFFECT ON OTHER PROCEEDINGS.—Deemed decisions under subparagraph (A) shall have no precedential effect in any judicial or administrative proceeding or for any other purpose.

(f) ADMINISTRATIVE SETTLEMENT.—During the pendency of any administrative proceeding, the parties shall hold at least one settlement consultation for the purpose of discussing disputed matters between the parties. For purposes of settlement, the Secretary may take such action as is appropriate to compromise and settle a disputed obligation, including interest and allowing offsetting of obligations among leases. The Secretary and the State concerned shall seek to resolve disputes with a lessee in as expeditious a manner as possible, through settlement negotiations and other alternative dispute resolution processes methods. If any dispute involving an obligation due is not resolved by the end of the 6-year period beginning on the date the obligation became due, the amount of interest otherwise payable with respect to the obligation shall accrue after such 6-year period at the rate—

(1) for purposes of section 111(h), reduced each year thereafter by two additional percentage points from the rate in effect

under this subsection for the previous year (but not less than zero); and

(2) for purposes of section 111(a), reduced each year thereafter by one additional percentage point from the rate in effect under this subsection for the previous year (but not less than zero).

(g) LIMITATION ON CERTAIN ACTIONS.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under this section—

(1) no other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation may be taken; and

(2) no other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation may be pursued.

(h) JUDICIAL REVIEW.—In the event a demand subject to this section is timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

(i) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

(j) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary to pay an assessment shall be entitled to a stay without bond or other surety instrument.

(k) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.

SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) SELLING THE REVENUE STREAM.—

(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, upon request of the lessee or a State under section 205(g), the Secretary shall authorize a lessee for a marginal property and for a lease, the administration of which is

not cost-effective for the Secretary to administer, to make a prepayment in lieu of royalty payments under the lease for the remainder of the lease term. For the purposes of this section, the term "marginal property" has the same meaning given such term in section 111(k)(4), unless the Secretary, together with each State in which such marginal production occurs, determines that a different definition of marginal property better achieves the purpose of this section.

(2) MARGINAL PROPERTIES.—For marginal properties, prepayments under paragraph (1) shall begin—

(A) in the case of those properties producing on average $500 or less per month in total royalties to the United States, 2 years after the date of the enactment of this section;

(B) in the case of those properties producing on average more than $500 but $1,000 or less per month in total royalties to the United States, three years after the date of the enactment of this section;

(C) in the case of those properties producing on average more than $1,000 but $1,500 or less per month in total royalties to the United States, four years after the date of the enactment of this section; and

(D) in the case of those properties not described in subparagraphs (A) through (C), five years after the date of the enactment of this section.

(3) ADMINISTRATION NOT COST-EFFECTIVE.—For a lease, the administration of which is not cost-effective for the Secretary to administer, prepayments under paragraph (1) shall begin on the date of the enactment of this section.

(4) SATISFACTION OF ROYALTY OBLIGATION.—A lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on production from the lease or a portion of a lease and shall not be required to submit any royalty reports to the Secretary. The prepayment shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

(5) VALUATION.—The prepayment authorized under this section shall only occur if the Secretary, the State concerned, and the lessee determine that such prepayment is based on the present value of the projected remaining royalties from the production from the lease, based on appropriate nominal discount rate for a comparable term. Prior to accepting such prepayment, the Secretary and State concerned shall agree that such prepayment is in the best interest of the United States and the State concerned.

(b) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

(1) IN GENERAL.—Within one year after the date of the enactment of this section, for the marginal properties referenced in subsection (a)(1), the Secretary shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop such properties: Provided, That such relief will only be available to lessees in a State that concurs. Prior to granting such relief, the Secretary and the State concerned shall agree that the type of marginal wells and relief

provided under this paragraph is in the best interest of the United States and the State concerned.

(2) PAYMENT DATE.—For leases subject to this section, the Secretary may allow royalties to be paid later than the time specified in the lease.

TITLE II—STATES AND INDIAN TRIBES

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STATE SUITS UNDER FEDERAL LAW

SEC. 204. (a) * * *

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(d) With respect to an obligation, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.

DELEGATION TO STATES

SEC. 205. [(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspection, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State; except that the Secretary may not undertake such a delegation with respect to any Indian lands, except with the permission of the Indian tribe allottee involved.]

(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, such production and royalty accounting duties and responsibilities as the Secretary determines are legally delegable, all audit coverage, and investigations to any State with respect to all Federal lands within the State.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section; [and]

(3) such delegation will not create an unreasonable burden on any lessee[,]*; and*

(4) the State agrees to adopt Federal standardized reporting for Federal royalty accounting and collection purposes,

with respect to the Federal lands and Indian lands within the State.

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(g) Upon written request of any State, the Secretary is authorized to delegate for any year the responsibility to collect royalties from all Federal leases within the State if the average amount per year

of mineral revenues received by the State on all such leases under all Federal mineral leasing laws for the previous five years is less than $100,000. The State may also request that the Secretary sell the revenue stream from all or part of the Federal leases within the State in accordance with section 116 of the Federal Oil and Gas Royalty Management Act of 1982, as added by section 9518 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995.

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TITLE III—GENERAL PROVISIONS

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[STATUTE OF LIMITATIONS

[SEC. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.]

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OUTER CONTINENTAL SHELF LANDS ACT

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[SEC. 10. REFUNDS.—(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within 2 years after the making of the payment, or within 90 days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

[(b) No refund of or credit for such excess payment shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided*, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.]

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SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of

sections 6 and 7 of this Act, all royalties or net profit shares, or both accruing to the United States under any oil and gas lease issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas. *Any royalty or net profit share of oil or gas accruing to the United States under any such lease, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) upon prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.*

* * * * * * *

(b)(1) The Secretary, except as provided in this subsection, may offer to the public and sell by [competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value] *competitive bidding or private sale*, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

* * * * * * *

(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by [competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value] *competitive bidding or private sale* any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

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INDIAN GAMING REGULATORY ACT

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COMMISSION FUNDING

SEC. 18. (a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each class II gaming activity that is regulated by this Act.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be—

(i) no less than 0.5 percent nor more than 2.5 percent of the first [$1,500,000] *$2,500,000*, and

(ii) no more than 5 percent of amounts in excess of the first [$1,500,000] *$2,500,000*,

of the gross revenues from each activity regulated by this Act.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed [$1,500,000] *$2,500,000.*

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AUTHORIZATION OF APPROPRIATIONS

SEC. 19. (a) [Subject to the provisions of section 18, there are hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission.] *Notwithstanding the provisions of section 18, no funds may be authorized to be appropriated for the operation of the Commission.*

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ENDANGERED SPECIES ACT OF 1973

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INTERAGENCY COOPERATION

SEC. 7. (a) * * *

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[(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a)(2), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2).]

(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a)(2) of this section, the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section. This limitation on the commitment of resources is only applicable to consultations regarding site-specific projects and activities, and shall not apply to any consultation regarding an agency's periodic or long-term planning activities, mission or policy statements, programmatic documents, or general policies, regulations, or activities, whether or not such consultation has previously been initiated pursuant to a court order, and regardless of the date on which consultation was ordered or initiated.

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SECTION 8 OF THE ACT OF AUGUST 18, 1970

AN ACT To improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes.

SEC. 8. (a) *GENERAL AUTHORITY.*—The Secretary of the Interior is directed to investigate, study, and continually monitor the wel-

fare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. [At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System.] Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document: *Provided,* That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Natural Resources of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

[(b) The Secretary shall submit to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive, "National Park System Plan", which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.]

(b) STUDIES OF AREAS FOR POTENTIAL ADDITION.—(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas

recommended for study for potential inclusion in the National Park System.

(2) In developing the list to be submitted under this subsection, the Secretary shall give consideration to those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility. The Secretary shall give special consideration to themes, sites, and resources not already adequately represented in the National Park System as identified in the National Park System Plan to be developed under section 101 of the National Park System Reform Act of 1995.

(3) No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this subsection, except as provided by specific authorization of an Act of Congress.

(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than $25,000.

(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

(c) REPORT.—(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date of enactment of specific legislation providing for the study of such area. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

(2) In conducting the study, the Secretary shall consider whether the area under study—

(A) possesses nationally significant natural or cultural resources, or outstanding recreational opportunities, and that the area represents one of the most important examples of a particular resource type in the country; and

(B) is a suitable and feasible addition to the system.

(3) Each study—

(A) shall consider the following factors with regard to the area being studied—

(i) the rarity and integrity of the resources;

(ii) the threats to those resources;

(iii) whether similar resources are already protected in the National Park System or in other public or private ownership;

(iv) the public use potential;

(v) the interpretive and educational potential;

(vi) costs associated with acquisition, development and operation;

(vii) the socioeconomic impacts of any designation;

(viii) the level of local and general public support, and

(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

(D) may include any other information which the Secretary deems to be relevant.

(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969.

(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary's preferred management option for the area.

(d) NEW AREA STUDY OFFICE.—The Secretary shall establish a single office to be assigned to prepare all new area studies and to implement other functions of this section.

(e) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000.

INDIAN HEALTH CARE IMPROVEMENT ACT

* * * * * * *

TITLE IV—ACCESS TO HEALTH SERVICES

TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

SEC. 401. (a) Any payments received by [a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act)] *facility of the Service, Indian tribe, tribal organization, or urban Indian organization* for services provided to Indians eligible for benefits under title XVIII

of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

* * * * * * *

(c) Notwithstanding any other provision of law, a health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization, that is eligible for reimbursement for medical assistance under title XVIII of the Social Security Act shall be eligible to participate in, and receive reimbursement for medical assistance provided to individuals served under any plan offered under the Medicare Plus plan on the same basis as any other health care provider in the State in which the health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization is operated.

TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

SEC. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service, *Indian Tribe, tribal organization, or urban Indian organization* (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service, *Indian Tribe, tribal organization, or urban Indian organization* which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, *Indian Tribe, tribal organization, or urban Indian organization*, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

* * * * * * *

(c) Notwithstanding any other provision of law, a health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization, that is eligible for reimbursement for medical assistance under title XIX of the Social Security Act shall be eligible to participate in, and receive reimbursement for medical assistance provided to individuals served under any State plan authorized under any law which succeeds such title XIX on the same basis as any other health care provider in the State in which the health program of the Indian Health Service, an Indian tribe, tribal organization, or urban Indian organization is operated.

(d) Nothing in this section, or any other law, shall prevent an Indian eligible for services through an Indian health program from participating in any State plan authorized under any law which succeeds such title XIX.

(e) Nothing in this section, or any other law, shall authorize a State to deny or limit payments to any provider for medical assistance for items or services to Indians.

(f) Any State that authorizes a health plan under any law which succeeds such title XIX or applies for a waiver under section 1115 of title XIX of the Social Security Act shall consult with the Indian tribes located within the State in the development of the health plan's standards.

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SOCIAL SECURITY ACT

* * * * * * *

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * * * *

PART C—MISCELLANEOUS PROVISIONS

* * * * * * *

INDIAN HEALTH SERVICE FACILITIES

SEC. 1880. (a) A [hospital or skilled nursing] facility of the Indian Health Service, *Indian Tribe, tribal organization, or urban Indian organization*, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable [generally to hospitals or skilled nursing facilities (as the case may be)] under this title.

* * * * * * *

TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

* * * * * * *

INDIAN HEALTH SERVICE FACILITIES

SEC. 1911. (a) A facility of the Indian Health Service, *Indian Tribe, tribal organization, or urban Indian organization* (including a hospital, nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

* * * * * * *

ROLL NO. 1—VENTO AMENDMENT TO SUBTITLE A

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan			
Mr. Hefley		X	
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest	X		
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth		X	
Mr. Cremeans			
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf		X	
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign	X		
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		
Mr. Kildee	X		
Mr. Williams	X		
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio	X		
Mr. Faleomavaega		X	
Mr. Johnson	X		
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz		X	
Mr. Pickett		X	
Mr. Pallone	X		
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood		X	
Mr. Farr	X		
Total	14	27	

ROLL NO. 2—MILLER AMENDMENT TO SUBTITLE A

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan		X	
Mr. Hefley		X	
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest			

ROLL NO. 2—MILLER AMENDMENT TO SUBTITLE A—Continued

	Yea	Nay	Present
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth		X	
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf	X		
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		
Mr. Kildee	X		
Mr. Williams	X		
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio	X		
Mr. Faleomavaega		X	
Mr. Johnson	X		
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz		X	
Mr. Pickett		X	
Mr. Pallone			
Mr. Dooley	X		
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr	X		
Total	14	27	

ROLL NO. 3—MILLER AMENDMENT TO SUBTITLE A

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan		X	
Mr. Hefley		X	
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest			
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth		X	
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	

ROLL NO. 3—MILLER AMENDMENT TO SUBTITLE A—Continued

	Yea	Nay	Present
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf		X	
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		
Mr. Kildee	X		
Mr. Williams	X		
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio			
Mr. Faleomavaega		X	
Mr. Johnson		X	
Mr. Abercrombie		X	
Mr. Studds	X		
Mr. Ortiz		X	
Mr. Pickett		X	
Mr. Pallone			
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood		X	
Mr. Farr		X	
Total	7	33	

ROLL NO. 4—VENTO AMENDMENT TO SUBTITLE A

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin			
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan			
Mr. Hefley	X		
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest			
Mr. Calvert		X	
Mr. Pombo			
Mr. Torkildsen		X	
Mr. Hayworth		X	
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf	X		
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		

ROLL NO. 4—VENTO AMENDMENT TO SUBTITLE A—Continued

	Yea	Nay	Present
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson	X		
Mr. DeFazio	X		
Mr. Faleomavaega		X	
Mr. Johnson	X		
Mr. Abercrombie		X	
Mr. Studds			
Mr. Ortiz		X	
Mr. Pickett		X	
Mr. Pallone			
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr	X		
Total	12	25	

ROLL NO. 5—THORNBERRY AMENDMENT TO SUBTITLE A

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen	X		
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan			
Mr. Hefley		X	
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest			
Mr. Calvert		X	
Mr. Pombo			
Mr. Torkildsen		X	
Mr. Hayworth			
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry	X		
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller		X	
Mr. Rahall	X		
Mr. Vento			
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson		X	
Mr. Richardson	X		
Mr. DeFazio		X	
Mr. Faleomavaega		X	
Mr. Johnson		X	
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz	X		

ROLL NO. 5—THORNBERRY AMENDMENT TO SUBTITLE A—Continued

	Yea	Nay	Present
Mr. Pickett		X	
Mr. Pallone		X	
Mr. Dooley			
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr		X	
Total	9	27	

ROLL NO. 6—ABERCROMBIE AMENDMENT TO SUBTITLE A

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen			
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan		X	
Mr. Hefley		X	
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest			
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth		X	
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry	X		
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg			
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento			
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson	X		
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson	X		
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz	X		
Mr. Pickett		X	
Mr. Pallone	X		
Mr. Dooley			
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr			
Total	14	22	

ROLL NO. 7—JOHNSON AMENDMENT TO SUBTITLE B

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan		X	
Mr. Hefley	X		
Mr. Doolittle		X	
Mr. Allard	X		
Mr. Gilchrest			
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth	X		
Mr. Cremeans			
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith			
Mr. Radanovich		X	
Mr. Jones	X		
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento			
Mr. Kildee	X		
Mr. Williams	X		
Mr. Gejdenson	X		
Mr. Richardson	X		
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson	X		
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz	X		
Mr. Pickett		X	
Mr. Pallone			
Mr. Dooley	X		
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood			
Mr. Farr	X		
Total	18	19	

ROLL NO. 8—GEJDENSON AMENDMENT TO SUBTITLE B

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin,		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest		X	

ROLL NO. 8—GEJDENSON AMENDMENT TO SUBTITLE B—Continued

	Yea	Nay	Present
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth		X	
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith			
Mr. Radanovich		X	
Mr. Jones			
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento			
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson	X		
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson			
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz	X		
Mr. Pickett	X		
Mr. Pallone	X		
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood			
Mr. Farr		X	
Total	12	23	

ROLL NO. 9—RAHALL AMENDMENT TO SUBTITLE E

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin			
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest		X	
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen	X		
Mr. Hayworth		X	
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith			
Mr. Radanovich			

ROLL NO. 9—RAHALL AMENDMENT TO SUBTITLE E—Continued

	Yea	Nay	Present
Mr. Jones			
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson	X		
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson			
Mr. Abercrombie	X		
Mr. Studds			
Mr. Ortiz			
Mr. Pickett			
Mr. Pallone			
Mr. Dooley	X		
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr	X		
Total	13	18	

ROLL NO. 10—VENTO AMENDMENT TO SUBTITLE C

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly			
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest	X		
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth			
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith			
Mr. Radanovich		X	
Mr. Jones	X		
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		

ROLL NO. 10—VENTO AMENDMENT TO SUBTITLE C—Continued

	Yea	Nay	Present
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson			
Mr. Abercrombie	X		
Mr. Studds	X		
Mr. Ortiz			
Mr. Pickett			
Mr. Pallone	X		
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr	X		
Total	14	20	

ROLL NO. 11—HANSEN AMENDMENT TO CREATE NEW SUBTITLE

	Yea	Nay	Present
Mr. Young, Chairman	X		
Mr. Tauzin	X		
Mr. Hansen	X		
Mr. Saxton	X		
Mr. Gallegly	X		
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle	X		
Mr. Allard			
Mr. Gilchrest	X		
Mr. Calvert	X		
Mr. Pombo	X		
Mr. Torkildsen			
Mr. Hayworth			
Mr. Cremeans	X		
Mrs. Cubin	X		
Mr. Cooley	X		
Mrs. Chenoweth	X		
Mrs. Smith			
Mr. Radanovich	X		
Mr. Jones	X		
Mr. Thornberry	X		
Mr. Hastings	X		
Mr. Metcalf			
Mr. Longley	X		
Mr. Shadegg	X		
Mr. Ensign	X		
Mr. Miller	X		
Mr. Rahall		X	
Mr. Vento			
Mr. Kildee		X	
Mr. Williams			
Mr. Gejdenson		X	
Mr. Richardson			
Mr. DeFazio		X	
Mr. Faleomavaega			
Mr. Johnson			
Mr. Abercrombie		X	
Mr. Studds			
Mr. Ortiz	X		

ROLL NO. 11—HANSEN AMENDMENT TO CREATE NEW SUBTITLE—Continued

	Yea	Nay	Present
Mr. Pickett			
Mr. Pallone		X	
Mr. Dooley	X		
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood			
Mr. Farr		X	
Total	23	7	

ROLL NO. 12—MILLER AMENDMENT TO SUBTITLE C

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly		X	
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle		X	
Mr. Allard			
Mr. Gilchrest		X	
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth			
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento			
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson		X	
Mr. Abercrombie	X		
Mr. Studds			
Mr. Ortiz		X	
Mr. Pickett			
Mr. Pallone	X		
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood			
Mr. Farr		X	
Total	8	26	

ROLL NO. 13—CALVERT EN BLOCK AMENDMENT TO SUBTITLE E

	Yea	Nay	Present
Mr. Young, Chairman	X		
Mr. Tauzin	X		
Mr. Hansen	X		
Mr. Saxton	X		
Mr. Gallegly	X		
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle	X		
Mr. Allard			
Mr. Gilchrest	X		
Mr. Calvert	X		
Mr. Pombo	X		
Mr. Torkildsen	X		
Mr. Hayworth			
Mr. Cremeans	X		
Mrs. Cubin	X		
Mr. Cooley	X		
Mrs. Chenoweth	X		
Mrs. Smith	X		
Mr. Radanovich	X		
Mr. Jones	X		
Mr. Thornberry	X		
Mr. Hastings	X		
Mr. Metcalf			
Mr. Longley	X		
Mr. Shadegg	X		
Mr. Ensign	X		
Mr. Miller		X	
Mr. Rahall		X	
Mr. Veto			
Mr. Kildee		X	
Mr. Williams			
Mr. Gejdenson		X	
Mr. Richardson			
Mr. DeFazio		X	
Mr. Faleomavaega		X	
Mr. Johnson		X	
Mr. Abercrombie		X	
Mr. Studds			
Mr. Ortiz		X	
Mr. Pickett			
Mr. Pallone		X	
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood			
Mr. Farr		X	
Total	22	12	

ROLL NO. 14—ABERCROMBIE AMENDMENT TO SUBTITLE E

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly		X	
Mr. Duncan			
Mr. Hefley			
Mr. Doolittle		X	
Mr. Allard			
Mr. Gilchrest		X	

ROLL NO. 14—ABERCROMBIE AMENDMENT TO SUBTITLE E—Continued

	Yea	Nay	Present
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen		X	
Mr. Hayworth			
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento			
Mr. Kildee	X		
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio	X		
Mr. Faleomavaega	X		
Mr. Johnson	X		
Mr. Abercrombie	X		
Mr. Studds			
Mr. Ortiz	X		
Mr. Pickett			
Mr. Pallone			
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr	X		
Total	11	23	

ROLL NO. 15—GEJDENSON AMENDMENT TO SUBTITLE C

	Yea	Nay	Present
Mr. Young, Chairman		X	
Mr. Tauzin		X	
Mr. Hansen		X	
Mr. Saxton		X	
Mr. Gallegly		X	
Mr. Duncan		X	
Mr. Hefley		X	
Mr. Doolittle		X	
Mr. Allard		X	
Mr. Gilchrest			
Mr. Calvert		X	
Mr. Pombo		X	
Mr. Torkildsen	X		
Mr. Hayworth			
Mr. Cremeans		X	
Mrs. Cubin		X	
Mr. Cooley		X	
Mrs. Chenoweth		X	
Mrs. Smith		X	
Mr. Radanovich		X	

ROLL NO. 15—GEJDENSON AMENDMENT TO SUBTITLE C—Continued

	Yea	Nay	Present
Mr. Jones		X	
Mr. Thornberry		X	
Mr. Hastings		X	
Mr. Metcalf			
Mr. Longley		X	
Mr. Shadegg		X	
Mr. Ensign		X	
Mr. Miller	X		
Mr. Rahall	X		
Mr. Vento	X		
Mr. Kildee		X	
Mr. Williams			
Mr. Gejdenson	X		
Mr. Richardson			
Mr. DeFazio		X	
Mr. Faleomavaega	X		
Mr. Johnson			
Mr. Abercrombie	X		
Mr. Studds			
Mr. Ortiz	X		
Mr. Pickett			
Mr. Pallone	X		
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood	X		
Mr. Farr	X		
Total	11	26	

ROLL NO. 16—FINAL PASSAGE

	Yea	Nay	Present
Mr. Young, Chairman	X		
Mr. Tauzin	X		
Mr. Hansen	X		
Mr. Saxton	X		
Mr. Gallegly	X		
Mr. Duncan			
Mr. Hefley	X		
Mr. Doolittle	X		
Mr. Allard	X		
Mr. Gilchrest			
Mr. Calvert	X		
Mr. Pombo	X		
Mr. Torkildsen	X		
Mr. Hayworth	X		
Mr. Cremeans	X		
Mrs. Cubin	X		
Mr. Cooley	X		
Mrs. Chenoweth	X		
Mrs. Smith	X		
Mr. Radanovich	X		
Mr. Jones	X		
Mr. Thornberry		X	
Mr. Hastings	X		
Mr. Metcalf			
Mr. Longley	X		
Mr. Shadegg	X		
Mr. Ensign	X		
Mr. Miller		X	
Mr. Rahall		X	
Mr. Vento		X	

ROLL NO. 16—FINAL PASSAGE—Continued

	Yea	Nay	Present
Mr. Kildee		X	
Mr. Williams			
Mr. Gejdenson		X	
Mr. Richardson			
Mr. DeFazio		X	
Mr. Faleomavaega	X		
Mr. Johnson			
Mr. Abercrombie		X	
Mr. Studds			
Mr. Ortiz	X		
Mr. Pickett			
Mr. Pallone		X	
Mr. Dooley		X	
Mr. Romero-Barceló			
Mr. Hinchey			
Mr. Underwood		X	
Mr. Farr		X	
Total	25	12	

CONGRESSIONAL BUDGET OFFICE

With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the committee has not received a cost estimate for the committee print adopted by the Committee on Resources from the Congressional Budget Office [CBO]. When the committee receives the estimate from the CBO, it will transmit it to the Committee on the Budget.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the reconciliation recommendations of the House Committee on Resources.

The estimate shows the budgetary effects of the committee's proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Reconciliation recommendations of the House Committee on Resources.

3. Bill status: As approved by the House Committee on Resources on September 19, 1995.

4. Bill purpose: The provisions of this bill would reduce the budget deficit in future years by requiring the Government to sell certain Federal assets, lease the Arctic National Wildlife Reserve [ANWR] for oil and gas exploration, establish new fees and increase existing fees for the use of resources on public lands, allow the beneficiaries of Federal irrigation projects to prepay amounts owned to the Treasury for use of these facilities, terminate a guaranteed annual grant to the Northern Mariana Islands, and allow exports of crude oil from Alaska. In particular, the bill would:

Require the Secretary of the Interior to lease the Arctic National Wildlife Refuge [ANWR] for oil and gas exploration;

Require the Corps of Engineers to transfer administrative control of certain lands and facilities to the Secretary of Energy and then require the Secretary to sell all land and facilities related to the generation of electricity sold by the Southeastern Power Administration [SEPA];

Allow the Central Utah Water Conservancy District to prepay amounts under repayment contracts for use of the Central Utah project;

Terminate a guaranteed annual grant to the Northern Mariana Islands;

Allow the Bonneville Power Administration [BPA] to refinance its outstanding appropriated debt with the Treasury;

Reform concession contracts in national parks;

Increase fees and royalty payments for hardrock mining on Federal lands;

Increase the payment made to the Federal Government by San Francisco for the use of the Hetch Hetchy Dam:

Require the Secretary of the Interior to sell the Government's helium reserves;

Require the Secretary of Agriculture to sell Government-owned ski areas to current operators;

Increase fees for grazing livestock on Federal lands;

Allow exports of Alaskan crude oil; and

Transfer Federal property in Ward Valley, CA

5. Estimated cost to the Federal Government: CBO estimates that enacting those provisions would reduce direct spending and increase receipts from asset sales, thereby reducing outlays by about $2.3 billion over the 1996–2002 period. Most of these savings would be realized by leasing ANWR, selling the Southeastern Power Administration [SEPA], and allowing users of the Central Utah irrigation project to prepay contract amounts owed to the Government for water delivery. Table 1 summarizes the budgetary effects of these proposals for the 1996–2002 period. An attachment to this cost estimate presents an itemized summary of the budgetary effects for provisions approved by the Resources Committee.

The 7-year savings total of $2.3 billion would be reduced to about $1.4 billion if provisions in another title of the reconciliation bill are included in the final bill. Language approved by the House Committee on Transportation and Infrastructure would prohibit the sale of hydroelectric facilities whose output is marketed by SEPA. CBO believes that such a prohibition would apply to SEPA and prevent its sale.

TABLE 1.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON RESOURCES

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CHANGES IN DIRECT SPENDING							
Estimated budget authority	17	760	−89	4	782	175	228
Estimated outlays	45	779	−82	5	700	176	258
RECEIPTS FROM ASSET SALES [1] [2]							
Estimated budget authority	.....	−1,601	−4	−1,503	−1,012	−4	−4
Estimated outlays	.....	−1,609	−12	−1,512	−1,021	−13	−13

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

[2] These amounts include $1,500 million in estimated receipts for the sale of the Southeastern Power Administration [SEPA] in fiscal year 1999. Those receipts would not be obtained if the final bill includes provisions concerning the Corps of Engineers facilities approved by the Committee on Transportation and Infrastructure. On the other hand, the table's estimates of asset sale proceeds do not include receipts for the proposed sale of the Alaska Power Administration because the bill does not provide the necessary funding for the sale, nor does it include language providing for the tax-exempt financing that is necessary to facilitate such a sale.

The costs of this bill fall within budget functions 270, 300, 550, 800, and 950.

6. Basis of estimate: This estimate assumes that the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

Lease of Arctic National Wildlife Refuge.—The bill would direct the Secretary of the Interior to open the Arctic National Wildlife Refuge to exploration and drilling for oil and gas, with the first lease sale occurring in fiscal year 1997. All bonus bid, rental, and royalty receipts from lease sales would be split evenly between the Federal Government and the State of Alaska. The first lease sale would be required to take place within 12 months of the bill's enactment.

Based on previous analyses by DOI of potential tract values, CBO estimates that competitive bidding in the first lease sale would yield bonuses totaling approximately $1.6 billion. Annual rentals from leases issued in the first lease sale would total about $1 million after the lease sale takes place. We expect that a second lease sale would occur about 36 months after the first sale and yield additional bonus bids of about $1 billion in fiscal year 2000, for total bonus bids of $2.6 billion. Net of payments to Alaska, Federal receipts from these sales would total about $1.3 billion. Because royalties would be paid only after production has begun, any payments of royalties are unlikely to occur until after 2002.

The bill would create direct spending authority from some of the receipts from ANWR leasing. It would establish a Community Assistance Fund in the Treasury to be maintained at a level of $5 million using Federal revenues from ANWR development. The fund would be spent on assistance to local governments and Indian entities affected by the proposed exploration and development of the

Coastal Plain. CBO estimates that these Federal assistance payments would increase direct spending outlays by about $15 million over the 1996–2002 period.

In addition, subtitle K would establish a National Endowment for Fish and Wildlife, consisting of up to $250 million of the Federal share of revenues deposited into the Treasury from oil and gas leasing within the Coastal Plain. Deposits to the endowment would occur only to the extent that the Government's net receipts (after payments to Alaska) exceed $1.3 billion. The provision would give a new Fish and Wildlife Commission authority to make expenditures from this endowment, thus creating direct spending authority. CBO's point estimate for the net Federal receipts is $1.3 billion, but given the uncertainty surrounding such projections, receipts could be significantly higher or lower. Therefore, it is reasonably likely that some receipts would be deposited in the endowment and subsequently be spent.

Most estimates associated with this and other legislation could be either too high or too low. Hopefully, the errors balance out and the aggregate estimate is about right. The provision allowing for the spending of ANWR proceeds in excess of CBO's point estimate tilts the scales by reducing the possibility that savings could exceed our estimate, while leaving unchanged the likelihood that they could be less. This provision, therefore, reduces the total budgetary savings that this bill can be expected to achieve.

Assuming a 50-percent probability that net Federal receipts would equal or exceed $1.3 billion, expected deposits into the endowment would amount to $75 million in fiscal year 2000 and expected spending from the fund would total $45 million in 2001 and 2002. Taking into account the possibility of this additional spending, along with outlays from the Community Assistance Fund, reduces the expected budgetary savings from the ANWR lease sales to $1,243 million over the 1996–2002 period (see table 2).

TABLE 2.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL TO LEASE THE ARCTIC NATIONAL WILDLIFE REFUGE

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
RECEIPTS FROM ASSET SALES [1]							
Estimated budget authority	0	−1,601	−1	−1	−1,001	−1	−1
Estimated outlays	0	−1,601	−1	−1	−1,001	−1	−1
CHANGES IN DIRECT SPENDING							
Estimated budget authority	0	800	5	5	581	6	6
Estimated outlays	0	800	1	2	504	13	43

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

For purposes of this estimate, CBO assumes that potential legal challenges would not prevent DOI from issuing regulations and holding the first lease sale within 12 months of the enactment of the bill. If Alaska brings suit against the Federal Government challenging the receipts-sharing provisions, the first lease sale may not occur within 12 months of enactment. Further, CBO assumes that the provisions in the bill relating to Alaska National Interest Lands would have no impact on the Federal budget. We cannot

predict the likelihood or the extent to which potential legal actions might delay or prohibit the lease sales called for in the bill.

In addition to the changes in direct spending and asset sale proceeds, CBO estimates that implementing the rules and regulations required by the bill would increase administrative costs at DOI by about $2 million in fiscal year 1996 and by about $22 million over the 1996–2002 period.

Sale of Southeastern Power Administration.—CBO estimates that a competitive sale of SEPA as defined in section 9201 would result in proceeds to the Treasury of about $1.5 billion near the end of fiscal year 1999. Costs to prepare for the sale would be about $6 million. Following the sale of SEPA, we estimate the Government would lose about $750 million over the 2000–02 period from forgone receipts from the sale of electricity. These changes are summarized in table 3.

TABLE 3.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL TO SELL THE SOUTHEASTERN POWER ADMINISTRATION

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Offsetting receipts under current law:								
Estimated budget authority	−160	−175	−180	−185	−190	−190	−190	−190
Estimated outlays	−160	−175	−180	−185	−190	−190	−190	−190
Proposed changes:								
Cost of sale preparation:								
Estimated budget authority	.....	1	1	1	3	.....	.....	.....
Estimated outlays	.....	1	1	1	3	.....	.....	.....
Forgone offsetting receipts:								
Estimated budget authority	.....	.....	.....	.....	.....	190	190	190
Estimated outlays	.....	.....	.....	.....	.....	190	190	190
Asset sale proceeds [1] [2]:								
Estimated budget authority	.....	.....	.....	.....	−1,500	.....	.....	.....
Estimated outlays	.....	.....	.....	.....	−1,500	.....	.....	.....
Net spending under proposal:								
Estimated budget authority	−160	−174	−179	−184	−1,687	.....	.....	.....
Estimated outlays	−160	−174	−179	−184	−1,687	.....	.....	.....

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

[2] Section 10003 of this bill, as approved by the Committee on Transportation and Infrastructure, would prohibit the sale of any project or project feature operated by the Corps of Engineers. All power sold by SEPA is generated at facilities operated by the corps; therefore, CBO estimates that enacting both sections 9201 and 10003 would not result in any proceeds from the sale of SEPA.

The estimated sales price is based on a projection of after-tax cash flow to a private purchaser. We assume that power revenues from SEPA facilities would rise significantly following the sale, narrowing the current gap between Federal and non-Federal wholesale electricity prices in the region. Based on information from DOE and the electric utility industry, we estimate that Federal power is currently priced 25 to 75 percent below non-Federal power in the region. The bill would cap rate increases that could be passed on to those wholesale customers that receive more than 20 percent of their power supply from SEPA. Current sales information indicates that this restriction would affect less than 5 percent of the power sales from SEPA facilities. In addition, we assume that a non-Federal purchaser of the SEPA projects would be required to fund all project operations and maintenance, including recreation, navigation, and flood-control costs, and that a non-Fed-

eral owner could achieve some cost efficiency relative to Government operation.

Section 10003 of this bill (as approved separately by the Committee on Transportation and Infrastructure) would prohibit the sale of any project or project feature operated by the Corps of Engineers. All power sold by SEPA is generated at facilities operated by the corps; therefore, CBO estimates that enacting both sections 9201 and 10003 would not result in any proceeds from the sale of SEPA.

Central Utah project prepayments.—Section 9211 would amend the Central Utah Project Completion Act to allow for the prepayment by the Central Utah Water Conservancy District of repayments owed to the Bureau of Reclamation under the same terms and conditions as are contained in the supplemental contract providing for prepayments related to the Jordan Aqueduct System.

Based on information provided by the Bureau and the Central Utah Water Conservancy District, CBO estimates that the bill would result in prepayment receipts totaling $69 million in 1997, $129 million in 1998, and $33 million in 2001. The income from prepayments would be partially offset by a loss of offsetting receipts totaling $2.4 million annually. About $2 million of this amount is spent annually without appropriation for mandatory payments to the Ute Indian Tribe. The remainder is deposited in the U.S. Treasury. For purposes of this estimate, CBO assumes that payments to the tribe will continue after prepayment.

CBO estimates that a prepayment for already-completed segments of the central Utah project totaling roughly $69 million would occur in 1997. Prepayments for the remaining segments, the Jordanelle unit and the Diamond Fork system, would occur in fiscal years 1998 and 2001, respectively, when construction of these two sets of facilities should be completed. The prepayment estimates are based on current cost allocations and construction costs incurred up to September 30, 1994.

These estimated budgetary effects of changes to the central Utah project are summarized in table 4.

TABLE 4.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON THE CENTRAL UTAH PROJECT

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING								
Net spending under current law:								
Estimated budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Proposed changes:								
Estimate budget authority	.....	.....	−67	−127	2	2	−31	2
Estimated outlays	.....	.....	−67	−127	2	2	−31	2
Net spending under proposal:								
Estimate budget authority	(1)	(1)	−67	−127	2	2	−31	2
Estimated outlays	(1)	(1)	−67	−127	2	2	−31	2

[1] Less than $500,000.

Northern Mariana Islands Grant.—Section 9401 would terminate the guaranteed annual grant of about $28 million made by the United States to the Northern Mariana Islands. Based on the historical rate at which such funds have been spent, we estimate that

some spending for the Northern Marianas would continue through 1999 from budget authority provided in 1995 and prior years. Total savings would amount to $126 million over the 1996–2002 period. In addition to eliminating new grant obligations beginning in 1996, this provision would rescind any remaining funds not obligated at the time of enactment. CBO estimates, however, that budget authority provided in 1995 and prior years will be fully obligated before enactment.

Bonneville Power Administration debt refinancing.—Section 9205 would change the procedures the Bonneville Power Administration uses to determine the amounts the agency charges its electricity customers to repay prior Government appropriations that financed the construction of the hydroelectric system in the Pacific Northwest. Starting in 1996, the bill would direct BPA and the Treasury to redefine the outstanding appropriated construction costs of the BPA system, and would assign a new and higher interest rate to be applied to the outstanding construction costs. The value to the Treasury of such payments would increase slightly, but BPA would have to commit, in its contracts for the sale of electricity, that it would not assess any additional charges in the future—after reflecting changes necessitated by this bill—to cover previously appropriated construction costs.

By restructuring BPA's appropriated debt, the bill would increase the debt service payments the agency makes to the Treasury by about $30 million annually over the 1996–2002 period. BPA would finance this increase in intragovernmental payments by charging higher rates for the sale of electricity, which would increase the amount of offsetting collections received by the Government. At the same time, however, the bill would permanently appropriate funds to BPA to pay for part of the Federal Government's settlement with the Colville Tribe. Over the 1996–2002 period, these appropriations would total about $90 million. CBO estimates that the net budgetary savings of these provisions over the 7-year period would be $120 million, as shown in table 5.

TABLE 5.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON REFINANCING BPA DEBT

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CHANGES IN DIRECT SPENDING							
Additional offsetting receipts:							
Appropriations repayment:							
Estimated budget authority	−31	−30	−31	−30	−30	−29	−29
Estimated outlays	−31	−30	−31	−30	−30	−29	−29
Reduction in offsetting receipts:							
Colville Tribe payment credits:							
Estimated budget authority	15	16	16	17	18	4	4
Estimated outlays	15	16	16	17	18	4	4
Net budgetary impact of proposal:							
Estimated budget authority	−16	−14	−15	−13	−12	−25	−25
Estimated outlays	−16	−14	−15	−13	−12	−25	−25

Concession contracts at national parks.—Section 9301 would repeal existing laws governing the use of concessions contracts by Federal land management agencies such as the National Park Service [NPS] and the U.S. Forest Service (except for ski concessions). The bill would establish new concession policies and prac-

tices to be adopted by these agencies, including requirements for competitive bidding, performance evaluations of contractors, and treatment of concessioner capital investments on Federal lands. This section also would revise existing agency practices that govern concessioner deposits to, and spending from, contractor-held bank accounts. Federal agencies would have 2 years in which to promulgate new regulations implementing the legislation, after which the authority to execute or extend any concession contract would terminate. Section 9312 would require Federal agencies to deposit concession receipts into the general fund of the U.S. Treasury. The NPS, however, would be permitted to retain and use without further appropriation any receipts that exceed amounts specified in section 9312(b) for each of fiscal years 1997 through 2002.

Assuming that Federal agencies promulgate the necessary regulations to implement these provisions within the next 2 years, CBO estimates that this legislation would increase offsetting receipts by about $5 million in fiscal year 1998. The amount of new annual receipts would increase to about $27 million by 2002, resulting in total savings over the 7-year period of about $27 million by 2002, resulting in total savings over the 7-year period of about $80 million. These amounts are net of small amounts of additional direct spending for payments to States that would result from the new Forest Service receipts and for new spending that would occur if receipts from NPS concessions exceed the amounts specified in section 9312(b).

Hardrock mining.—Section 9501 would make a number of changes to the general mining law of 1872, the primary law governing the production of hardrock minerals on Federal lands. This bill would make permanent the existing requirements (currently set to expire in 1998) that owners of unpatented mining claims pay an initial $25 location fee and an annual $100 maintenance fee. Claimholders would be allowed to receive a credit against the annual maintenance fee for certain labor costs associated with developing the claims. Small claimholders would no longer be exempt from paying the maintenance fee. New claimholders would no longer have to pay the maintenance fee for the year in which the claim is initially staked.

This bill also would subject the production and sale of locatable minerals to a 3.5-percent royalty on the net proceeds from the claim if the mine's annual net proceeds exceed $50,000. One-third of the royalty receipts would be distributed to the State in which the mining claim is located. Finally, the bill would require that claimants pay the fair market value of the surface land for any acres issued a patent and would make changes to the program for managing certain mineral materials on Federal lands. Claimants would be exempt from paying the royalty and patent fees if they file an application to survey or purchase the claim within 2 years after the date of enactment of the bill.

In total, CBO estimates that enactment of this provision would decrease offsetting receipts to the Federal Treasury, net of royalty receipts shared with the States, by about $3 million in 1996. These losses would result from provisions that would exempt new claimholders from paying the annual maintenance fee in the first year the claim is staked. Over the 1996–2002 period, however, we

estimate that offsetting receipts would increase by about $76 million, primarily from extension of the annual maintenance fee beyond 1998, as shown in table 6.

TABLE 6.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON CHANGES TO LEASING FROM HARDROCK MINING

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING								
Net spending under current law:								
Estimated budget authority	−33	−33	−33	−33	.....	.....	.....	.....
Estimated outlays	−33	−33	−33	−33	.....	.....	.....	.....
Proposed changes:								
Estimated budget authority	.....	3	15	16	−24	−24	−31	−31
Estimated outlays	.....	3	15	16	−24	−24	−31	−31
Net spending under proposal:								
Estimated budget authority	−33	−30	−17	−17	−24	−24	−31	−31
Estimated outlays	−33	−30	−17	−17	−24	−24	−31	−31

Hetch Hetchy fees.—Section 9214 would amend provisions of current law that govern the amount and disposition of payments made by the city of San Francisco to the Federal Government for use of land within Yosemite National Park. The annual payment is currently set at $30,000 and is retained and used by the NPS without further appropriation. Section 9214 would increase the payment to $8 million and would require that the proceeds be placed in a separate Federal fund. Spending from the fund would be subject to appropriations action. These amendments would increase offsetting receipts by about $56 million over the 1996–2002 period.

Sale of helium reserves.—Section 9011 would privatize the Bureau of Mines refined helium facilities, and eventually, its reserve of crude helium. The bill would direct the Secretary of the Interior to stop producing, refining, and selling helium within 18 months after enactment and to dispose of all refining facilities within 2 yeas after enactment.

CBO estimates that the changes to the helium operations—primarily from the sale of crude helium—resulting from the enactment of this bill would produce a savings to the helium fund of about $53 million from fiscal years 1996 through 2002.

Grazing fees.—Section 9331 would change the formulas for calculating livestock grazing fees. The new fee formula for beef cattle would be based on the 3-year average of the total gross value of production for beef cattle and the 10-year average of the rate for new issues of 6-month Treasury bills. We expect that this formula would increase receipts relative to current law. Another section would revise the definition of animal unit month [AUM] by increasing the number of sheep and goats per AUM from five to seven. That provision would slightly decrease receipts relative to current law. The changes in offsetting receipts would total about $34 million over the 1996–2002 period.

Current law requires that the Forest Service and the Bureau of Land Management pay a portion of the offsetting receipts from grazing on public lands to the States. CBO estimates that payments to States for grazing on public lands, under current law, will be about $5 million in fiscal year 1996 and about $44 million over

the 1996–2002 period. We estimate that enacting the bill, by raising receipts from grazing fees, would increase payments to States by less than $1 million in fiscal year 1996 and by about $8 million over the 1996–2002 period. As a result, net savings from these provisions would total $26 million over the 1996–2002 period.

Sale of Government-owned ski areas.—Section 9321 would require the Secretary of Agriculture to offer to sell Forest Service lands currently used under permit as ski areas. The bill would require the Secretary to offer to sell such property to at least 40 qualifying operators of ski areas within 5 years of enactment of the bill. Sales would be at the fair market value based on appraisals of the lands, excluding the value of any improvements on the land made by the concessioner. Ski operators would qualify to buy the Federal lands on which they operate if they were under a lease when the bill was enacted, had improvements on the land with a fair market value greater than $2 million, and were located adjacent to the boundary of Federal lands or other significant private holdings.

Section 9321 would allow the Secretary to retain 50 percent of the proceeds from such sales to acquire other high-priority lands. The remaining 50 percent would be deposited into the general fund of the Treasury.

This provision would have four budgetary effects: (1) Asset sale receipts from the sale of lands to certain ski operators, (2) a loss of fees paid to the Government by those operators, (3) a reduction in payments to States because of that loss in fee collections, (States currently receive 25 percent of such fees), and (4) an increase in Federal spending for land acquisition. On balance, CBO estimates that these effects would reduce net spending by about $21 million over the 1996–2002 period. Over that period, we estimate asset sale receipts of $48 million, new spending for land acquisition of $24 million, and a loss of fees, net of payments to States, of about $3 million.

Exports of Alaskan crude oil.—Based on information from the Department of Energy and industry sources, CBO expects that the export of Alaska North Slope [ANS] oil would result in a temporary increase in the price of oil paid to producers on the west coast. Higher west coast oil prices would produce additional income to the Federal Government from the sale of oil from federally owned reserves and from royalties on Federal leases in California and Alaska. We estimate that the additional income resulting from price increases would total about $21 million over the 1996–2002 period. Over half of this income would be collected by 1997, because the effect of exports on west coast prices is likely to diminish over time and because the source of Federal receipts most affected by a price hike—the Elk Hills Naval Petroleum Reserve in California—would be sold to the private sector near the beginning of fiscal year 1997, assuming that other titles of this reconciliation measure are enacted. (The sale of the Elk Hills reserve is included in provisions approved by both the House Committee on Commerce and the House Committee on National Security.)

California land sale.—Section 9341 would transfer Federal property in California to the State of California in exchange for

$510,000. CBO estimates this transaction would occur shortly after enactment of this bill.

Ski fees.—Section 9322 would establish a new formula for determining fees to be paid to the Government by ski areas located on Federal lands. CBO estimates that enacting this section would reduce the collection of offsetting receipts by about $8 million during the 1996–2002 period. Enactment also would decrease direct spending by about $2 million during that period because of reduced payments to States. Overall, CBO expects the net change to be an increase in outlays of $6 million over the 1996–2002 period.

Based on information from the Forest Service, CBO estimates that the proposed new fee formula would increase receipts from permit fees slightly in the long term, but that receipts would drop in the 1996–2002 period because of the provision allowing current permittees to select the fee formula they prefer.

Depending on their revenues, some ski areas would pay less in fees under the proposed formula than they pay now, while other areas would pay more. As current permits expire and new permits are issued, more permits would be subject to the proposed new fee-assessment method. Over time, therefore, fewer permittees would be able to select a lower fee-assessment method and expected receipts would return to (and eventually exceed) current levels. But because most permits will expire after the year 2000, CBO expects an overall loss in receipts in the 1996–2002 period.

Sly Park Irrigation Unit.—Section 9213 would direct the Secretary of the Interior to sell the Sly Park Dam and Reservoir, the Camp Creek Diversion Dam and Tunnel, and related interests and associated water rights to the El Dorado Irrigation District in El Dorado County, CA, within 1 year of enactment of this bill. CBO estimates that enactment of this provision would have no net budgetary impact. The bill would allow the purchasers to pay the Government over 20 years at 2.5-percent interest, and would not allow the purchase price to exceed approximately $21 million. Under current law, the users of this irrigation unit pay about $1 million annually to the Government to pay the capital and interest costs of constructing the facilities. CBO assumes the users would be willing to purchase the project (over 20 years) if the annual cost does not exceed the current annual $1 million payment made to the Government. Assuming the El Dorado Irrigation District pays at least $12 million plus interest in purchase payments for the project over 20 years, enactment of this provision would have no net cost. This estimate assumes that purchase payments under the bill would be approximately equal to the current annual receipts from the district.

Sale of Alaska Power Administration.—Section 9003 would authorize the sale of the Alaska Power Administrative [APA] in accordance with the terms and conditions of the existing negotiated purchase agreements between the Department of Energy and the potential purchasers of the APA. CBO believes that enactment of this section would not, by itself, result in the sale of the APA because the bill does not provide funding for sale preparation and transactions costs, which we estimate at $4 million in 1996, nor does the bill amend current law to allow the State of Alaska to issue tax-exempt debt to finance part of the purchase of the APA.

The purchase agreements call for a change in law to allow this type of financing. Consequently, enactment of this section would not change mandatory spending or receipts.

Indian gaming.—Section 9601 would increase the amount of fees that can be levied on class II gaming facilities on Indian lands by the National Gaming Commission from $1.5 to $2.5 million. Fees collected by the Commission are offsetting collections; they may be spent by the Commission without further appropriations action. Therefore, increasing the amount that may be collected would have no net budgetary impact.

Mapping.—Section 9801 directs the Secretary of the Interior to develop an inventory of all surveying and mapping activities currently provided by the Department of the Interior and to develop and implement a plan within 180 days of enactment of this legislation for contracting out these activities to private firms. While this provision could result in a reduction in costs of personnel and equipment for surveying and mapping, CBO estimates that these cost reductions would be offset by increased contracting expenditures. In sum, CBO estimates that this provision would have no significant net budgetary impact. In any event, all such changes in costs of surveying and mapping activities would be subject to appropriations action.

Oil and gas royalties.—Section 9511, the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, would make a number of changes to the Federal Government' procedures for collecting royalty payments on oil and gas extracted from Federal lands (both onshore and offshore). Specifically, the bill would impose a 6-year statute of limitations on audits of oil-and gas-lease performance and would require that administrative appeals be completed within 3 years from the date of appeal. The Federal Government would be required to pay interest on royalty overpayments made by oil and gas companies. This section also would ease reporting requirements for lessees with oil and gas production that is defined as "marginal" and allow for the prepayment of royalties from these leases. The bill would also clarify the policy on allocating production among leases, delay for 1 month the payment of gas royalties, and make many other changes to the reporting requirements for oil and gas leases.

Several of these changes would advance the collection of money that the Federal Government is owed from ongoing oil-and gas-leasing activities, although the total amount of royalties due to the Federal Government over time would not change. In total, we estimate that provisions that fix the statute of limitations at 6 years, require appeals to be completed within 3 years, clarify the policy on allocating production among certain lessees, and allow for the prepayment of certain royalties, would shift—from years after 2002—$3 million in collections into 1996 and a total of about $111 million into the 1996–2002 period. These amounts are net of payments to States of their portion of onshore collections.

On the other hand, the obligations of the Federal Government to lessees would be expanded by this bill. Beginning September 1, 1996, the Federal Government would be required to pay or credit interest on overpayments at the rate specified in the Internal Revenue Service Code for overpayments. The bill would disallow pay-

ment of interest only if a lessee's overpayments for a given month exceed 25 percent of the total royalties due on all of its Federal leases. The bill also would remove restrictions on the time allowed for lessees to request refunds. In both cases, these payments would be deducted from receipts from royalties, rents, and bonuses. The share borne by States would be deducted from their payments.

According to data provided by the Minerals Management Service [MMS], overpayments currently average about 3 percent of the royalties paid each year. For the purposes of this estimate, we assume that the amount of overpayments would increase slightly (to nearly 5 percent) because any excess payments would now earn interest at a rate that is 2 percent above the Treasury's short-term rate. We estimate that requiring the Government to pay interest on royalty overpayments would increase Federal outlays by about $9 million annually starting in 1997, net of payments by States. If overpayments reach the 25-percent cap in the bill, Federal outlays would be correspondingly higher. Based on information provided by MMS, we estimate that the removing the time limit for refund requests would result in an increase in Federal outlays of about $1 million per year beginning in 1998, net of payments by States.

One provision in this part would create a new due date for the payment of royalties on gas produced on Federal leases, effectively delaying the requirement for payment of such royalties by 1 month. CBO estimates that while the total amount of royalties from gas production owed the Federal Government would not change, shifting the due date for such payments by 1 month would result in the loss of about $140 million over the 1996–2002 period. Depending on how the Secretary of the Interior implements this provision, the loss could be realized entirely in 1996 or over several years. This estimate assumes the latter.

In total, CBO estimates that enacting these provisions would increase net spending by about $15 million in 1996 and $81 million over 7 years. A number of provisions in this part—in particular those making it more difficult to audit lessee records—that could result in additional losses of receipts to the MMS, but we do not expect such losses to be significant in any year.

Indian health.—Under current law, Indian Health Service [IHS] facilities operated by the service, a tribal organization, or an Indian tribe may be reimbursed for services rendered under a State Medicaid plan, provided the facility meets the requirements and conditions generally applicable to such facilities under title XIX of the Social Security Act. Section 402 of the Indian Health Care Improvement Act also specifies that the Secretary of Health and Human Services shall place in a special fund, payments for which IHS facilities are entitled under State Medicaid plans. These funds shall be used to make any improvements necessary for these facilities to comply with the applicable conditions and requirements of title XIX.

Sections 9901 and 9902 of this bill would extend eligibility for reimbursement under State plans to facilities of Indian tribes, urban Indian organizations, and tribal organizations. It also would amend section 402 of the Indian Health Care Improvement Act. This amendment would allow any health program of the IHS, an Indian tribe, tribal organization, or urban Indian organization that is eligi-

ble for reimbursement under title XIX to participate in and receive reimbursement under State plans authorized under any law succeeding title XIX. These health programs would be eligible for reimbursement on the same basis as any other health care provider in the State in which they operate.

This bill also would require that all Indians eligible for services through an Indian health program be allowed to participate in any State plan that succeeds title XIX. Additionally, this provision would require that States authorizing health plans under any State laws succeeding title XIX must work with the Indian tribes located within their boundaries in developing the health plan's standards.

Finally, this bill would require that the Secretary of Health and Human Services conduct a study of the number of Indians eligible for services under title XIX, the number of Indians receiving these services, and the impact upon Indian communities of eliminating the entitlement status of title XIX and transferring funding from this title to the States. The Secretary shall also make recommendations regarding the improvement of these services to eligible Indians. This report would have to be submitted to the Congress by June 1, 1996.

Under the Commerce Committee's Medicaid proposal, which is also part of the reconciliation bill, this provision would have no Federal budgetary impact. Under the proposed Medigrant Program, the Federal share of medical assistance payments would be capped. Because CBO assumes that Federal spending would be at the cap amounts, the additional cost of this provision would not be passed on the Federal Government. Under current law, this provision would result in additional costs to the Federal Government.

Sections 9904 and 9905 would allow all health programs operated by the IHS, Indian tribes, tribal organizations, and urban Indian organizations to participate in Medicare on the same basis as any other health care provider. These organizations will also be eligible for reimbursement for service provided to individuals participating in a Medicare Plus plan. CBO estimates that this provision would approximately double the level of Medicare reimbursements currently paid to eligible IHS and tribal facilities. Under this assumption, the cost of this expansion will be $56 million in fiscal year 1996. Factoring in inflation, additional outlays would rise to $136 million in fiscal year 2002. These funds can be used by IHS to make any improvements necessary for its facilities to comply with the applicable conditions and requirements of title XVIII.

Under current law, only specific types of IHS and tribally operated health care facilities may participate in the Medicare Program. IHS hospitals and skilled nursing facilities, tribal health providers that own their own facilities, and tribal facilities that are certified as federally qualified health centers [FQHC's] may receive reimbursement under Medicare. To quality as a FQHC, a tribal program must be contracted or compacted under the Indian Self-Determination Act or urban clinics. Because the IHS does not provide nursing care at this time, there are no IHS-operated nursing facilities.

Currently, most tribal health programs operate out of IHS-owned facilities. However, these programs are excluded from participating in Medicare, unless they are hospitals or FQHC clinics.

7. Estimated cost to State and local governments: A number of provisions would directly affect the budgets of State and local governments, including State and municipal utilities and irrigation districts. Most of these provisions would benefit State governments or local entities by increasing income shared by States and the Federal Government or by authorizing voluntary transactions.

Arctic National Wildlife Refuge.—The State of Alaska would share 50 percent of all bonus bids, rentals, and royalties realized from enactment of this provision. As a result, CBO estimates that payments to Alaska from mineral development activities on Federal lands within the State would increase by approximately $1.3 billion during the 1996–2002 period.

In addition, this section would establish a community assistance fund in the Treasury to be funded at an annual level of $5 million out of the Federal share of revenues from ANWR development. As a result, CBO estimates that the Federal assistance payments to local governments and Indian entities affected by the proposed exploration and development of the Coastal Plain would total about $15 million over the 1996–2002 period.

Sale of Southeastern Power Administration.—The sale of SEPA to a non-Federal entity would result in an increase in the rates paid by SEPA customers, some of which are public utilities, including municipal utilities, State utilities, public utility districts, and irrigation districts. While these provisions would therefore increase the costs of the affected State and local governments, these increased costs would be passed through to the individual customers of these utilities.

In fiscal year 1994, public utilities paid about $25 million for power purchased from SEPA. Given our estimate that Federal power is priced 25 to 75 percent below non- Federal power sales in the region, public utilities could pay as much as $75 million more for this power after the sale of SEPA in fiscal year 1999. This cost increase could be reduced by a provision in the bill that would cap rate increases passed on to wholesale customers receiving more than 20 percent of their power supply from SEPA.

Central Utah project prepayments.—This section would allow the Central Utah Water Conservancy District to prepay construction repayment contracts for the central Utah project. CBO estimates that the district would make prepayments of about $69 million in 1997, $129 million in 1998, and $33 million in 2001. These repayments would be voluntary on the part of the district, and we assume it would choose to prepay only if it would benefit from doing so.

Bonneville Power Administration debt refinancing.—BPA customers would pay more for power as a result of the increased debt service payments made by the agency to the Treasury. This rate increase would be partially offset, however, because BPA customers would no longer have to pay for part of the Federal Government's settlement with the Colville Tribe. We estimate that the net result of these changes would be increased costs for BPA's customers of $120 million over the next 7 years. Almost half of BPA power sales in fiscal year 1994 were to public utilities, so we estimate that payments by these utilities would increase by about $60 million over the 7-year period as a result of these provisions. This bill would

also require BPA to include in its contracts for the sale of electricity a commitment not to assess any additional charges in the future to cover previously appropriated construction costs.

Hardrock mining.—States would receive one-third of any receipts collected from the royalty imposed on hardrock minerals produced on certain Federal mining claims within their borders. CBO estimates that these payments to States would total about $0.2 million in 1996 and about $4.5 million over the 1996–2002 period.

Hetch Hetchy Dam.—This provision would amend the 1913 act that granted the city of San Francisco the right to build and operate water and power facilities within the Yosemite National Park. This amendment would increase the required annual payment from the city to the Federal Government from $30,000 to $8 million. In a year of normal rainfall, revenue earned by the city from the sale of water and power generated from these facilities may reach $25 million. This amount, however, has fallen to as low as $3 million in years of low rainfall, so the city may be forced to draw on other sources of revenue in some years to make the required payment to the Federal Government.

In addition to the required $30,000 payment, the city voluntarily provides funds for a watershed protection program in Yosemite. It paid $944,200 for this program in the current fiscal year. The city could choose to reduce this payment if faced with higher mandatory payments.

Grazing fees.—Under current law, States receive a portion of all Federal grazing fees collected within their borders. By increasing total receipts from grazing fees, this provision would increase payments to States in fiscal year 1996 by almost $1 million. For the 1996–2002 period, payments to States would increase by about $8 million compared to payments under current law.

Ski fees and sale of ski areas.—These provisions would affect payments to States with Forest Service ski areas within their borders because States receive 25 percent of ski permit fee receipts. The net impact would be a loss of receipts to States of about $3 million over the next 7 years. In particular, CBO estimates that the sale of ski areas would lead to a reduction in permit fees paid to the States of about $1 million over the 1996–2000 period. We estimate that the change in the formula used to assess fees would lead to a further reduction in these receipts of about $2 million over the next 7 years, but a slight increase in later years.

Export of Alaskan crude oil.—Analyses by DOE and industry sources have suggested that allowing exports of ANS crude oil could result in additional revenues for State and local governments in Alaska and California from higher royalties, tax receipts, and other sources. While we cannot estimate the total amount that would accrue to these States and localities as a result of this provision, we estimate that the States share of additional royalties from production on Federal lands would be about $2 million over the next 7 years. This represents only part of the potential increase in State and local revenues, however. State and local governments would also benefit to the extent that oil production on State and private lands is encouraged by this provision.

Oil and gas royalties.—CBO estimates that the net impact of these provisions would be a $33 million increase in royalty income

received by State governments over the next 7 years. States are affected by these changes because they share 50 percent of the royalty income from oil and gas leased on Federal lands within their borders. Several of these changes would shift the collection of these royalties from future years. As a result, CBO estimates that the States share of royalty income would increase by about $40 million over the next 7 years. States would also share in the loss of royalty income from provisions requiring the Federal Government to pay interest on royalty overpayments. We estimate that the total impact of changes affecting interest paid on under- and overpayments of royalties would be a cost to the States of about $7 million over the same period.

Sly Park Unit Conveyance Act.—This section would direct the Secretary of the Interior to convey certain facilities to the El Dorado Irrigation District in El Dorado County, CA. CBO estimates that this conveyance would only occur under terms and conditions that would not significantly change the district's annual payments to the Federal Government over the next 20 years. Hence, for that period, sale under those conditions would have no budgetary impact.

City of Folsom.—By designating the city of Folsom, CA, as a Central Valley project contractor as of November 1, 1990, the bill would allow the city to avoid a $25 per-acre-foot surcharge for water purchased from the Central Valley project.

Sale of Alaska Power Administration.—The proposed purchasers of the APA would include the Alaska Energy Authority, a public corporation of the State of Alaska, and Anchorage Municipal Light and Power, which is owned by the municipality of Anchorage. Together with two nonprofit electric cooperatives, these utilities would purchase the facilities of the APA for $77 million under agreements negotiated in 1989. These purchasers have negotiated this sale on a voluntary basis. As noted earlier in this estimate, however, CBO does not consider the language in this bill sufficient to bring about this sale.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Federal cost estimates: Kim Cawley, Gary Brown, Victoria Heid, Kathleen Gramp, Deborah Reis, John R. Righter, Rachel Robertson, Richard Farmer, and Anne Hunt.

State and local estimates: Marjorie Miller and Karen McVey.

11. Estimate approved by: Robert A. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

ESTIMATED BUDGETARY IMPACT OF RECONCILIATION PROVISIONS APPROVED BY THE HOUSE COMMITTEE ON RESOURCES

[Mandatory savings (−) and costs (+) by fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	5-year total	7-year total
ASSET SALES AND CHANGES TO DIRECT SPENDING									
Exports of Alaskan oil:									
Budget authority	−5	−7	−4	−3	−2	0	0	−21	−21
Outlays	−5	−7	−4	−3	−2	0	0	−21	−21

ESTIMATED BUDGETARY IMPACT OF RECONCILIATION PROVISIONS APPROVED BY THE HOUSE COMMITTEE ON RESOURCES—Continued

[Mandatory savings (−) and costs (+) by fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	5-year total	7-year total
Arctic National Wildlife Refuge:									
Budget authority	0	−801	4	4	−420	5	5	−1,213	−1,203
Outlays	0	−801	0	1	−497	12	42	−1,297	−1,243
Alaska PMA sale:									
Budget authority	0	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0	0
Sale of helium reserves:									
Budget authority	0	0	−1	0	0	0	0	−1	−1
Outlays	0	−8	−9	−9	−9	−9	−9	−35	−53
Sale of SEPA [2]:									
Budget authority	1	1	1	−1497	190	190	190	−1,304	−924
Outlays	1	1	1	−1,497	190	190	190	−1.304	−924
Bonneville Power Administration refinancing:									
Budget authority	−16	−14	−15	−13	−12	−25	−25	−70	−120
Outlays	−16	−14	−15	−13	−12	−25	−25	−70	−120
Central Utah prepayment:									
Budget authority	0	−67	−127	2	2	−31	2	−190	−219
Outlays	0	−67	−127	2	2	−31	2	−190	−219
Sly Park:									
Budget authority	0	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0	0
Hetch Hetchy fees:									
Budget authority	−8	−8	−8	−8	−8	−8	−8	−40	−56
Outlays	−8	−8	−8	−8	−8	−8	−8	−40	−56
Concession contracts at national parks:									
Budget authority	0	0	−5	−11	−16	−21	−27	−32	−80
Outlays	0	0	−5	−11	−16	−21	−27	−32	−80
Ski area permit fees:									
Budget authority	2	2	2	([1])	([1])	([1])	([1])	6	6
Outlays	2	2	2	([1])	([1])	([1])	([1])	6	6
Sale of ski areas:									
Budget authority	0	0	−2	−2	−11	−3	−3	−15	−21
Outlays	0	0	−2	−2	−11	−3	−3	−15	−21
Livestock grazing fees:									
Budget authority	−2	−4	−4	−4	−4	−4	−4	−18	−26
Outlays	−2	−4	−4	−4	−4	−4	−4	−18	−26
California land sale:									
Budget authority	−1	0	0	0	0	0	0	−1	−1
Outlays	−1	0	0	0	0	0	0	−1	−1
Northern Mariana Islands:									
Budget authority	−28	−28	−28	−28	−28	−28	−28	−140	−196
Outlays	0	−7	−14	−21	−28	−28	−28	−70	−126
Hardrock mining:									
Budget authority	3	15	16	−24	−24	−31	−31	−14	−76
Outlays	3	15	16	−24	−24	−31	−31	−14	−76
Federal oil and gas royalties:									
Budget authority	15	9	10	7	9	14	17	50	81
Outlays	15	9	10	7	9	14	17	50	81
Indian gaming:									
Budget authority	0	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0	0
Indian health [3]:									
Budget authority	56	61	68	78	94	113	136	357	606
Outlays	56	59	65	75	89	107	129	344	580
Total changes.									
Budget authority	17	−841	−93	−1,499	−230	171	224	−2,646	−2,251
Outlays	45	−830	−94	−1,507	−321	163	245	−2,707	−2,299

[1] Less than $500,000.

[2] Provisions ordered reported by the House Transportation and Infrastructure Committee would prevent the sale of SEPA.

[3] Includes estimates of additional Medicare costs only. Under current law, the changes that would be made by this section to Medicaid would also result in additional costs. Relative to the changes that would be made to Medicaid by the House Commerce Committee, however, these provisions would have no cost.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT REPORT

With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the committee print adopted by the committee.

TITLE X—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, October 11, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: Today, October 11, 1995, the Committee on Transportation and Infrastructure approved, by a recorded vote of 38–5, revised recommendations for budget reconciliation. This submission is to supercede and replace in full the previous reconciliation recommendations transmitted to you on September 29, 1995. The Committee's action today formally approved the language that ranking member Oberstar and I sent to you by letter on October 6. For your convenience, I am enclosing another copy of the legislative language and report.

After I made the submission of September 29, the Congressional Budget Office [CBO] informed the committee that a provision relating to the sale of Union Station air rights would be scored at less than we had expected and that the committee would receive no credit for fiscal year 1996, leaving the Transportation and Infrastructure Committee short of reaching its fiscal year 1996 savings target. The committee strongly disagrees with this scoring since it is contrary to the views of the General Services Administration, both as to the valuation of the air rights and as to GSA's ability to complete the sale in fiscal year 1996.

In order to fully comply, according to CBO, with each year's Reconciliation target, this supplemental submission adds language imposing fees on parking facilities provided at public buildings. Under the Rules of the House, the Transportation and Infrastructure Committee has jurisdiction over public buildings issues.

According to a preliminary analysis by CBO, this additional provision will save at least $63 million in fiscal year 1996 and $791 million over 7 years. Together with the provisions originally submitted on September 29, this will cause the Transportation and Infrastructure Committee to meet each year's target and to exceed its 7-year target by approximately $900 million.

With warm personal regards, I remain

Sincerely,

BUD SHUSTER,
Chairman.

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PURPOSE AND SUMMARY

PURPOSE OF SUBTITLE A—WATER RESOURCES

Sec. 10001

This provision would assure that existing concession agreements, licenses, and policies governing commercial activities at water resources projects of the Army Corps of Engineers are not modified as a result of provisions being considered elsewhere in the budget reconciliation. Part 1 of subtitle C of title IX, as reported by the Committee on Resources, would require new, standardized policies for commercial concessions on federally owned lands. The primary goals of this approach are laudable: to achieve standardized government-wide policies, to assure a fair return to the Federal Government for commercial activities on its lands, and to continue to provide a high quality visiting experience on Federal lands.

The Corps of Engineers' commercial concession policies are among the soundest of any Federal agency having land management responsibilities. While the provisions of title IX will have the greatest impact on the programs of the Departments of the Interior and Agriculture, the committee is concerned that they will also have unintended, potentially disruptive effects on the commercial concession activities of the Corps.

Reflecting the committee's concern, this section has been included to preclude the applicability of the provisions of title IX to corps commercial activities.

Sec. 10002

This provision would assure that water resources projects of the Army Corps of Engineers continue to function as authorized by Congress and continue to provide multiple-purpose benefits to the Nation. The provision would preclude the sale of corps projects, facilities, and lands that is contemplated elsewhere in the budget reconciliation legislation. Part 1 of subtitle B of title IX, as reported by the Committee on Resources, directs the Secretary of Energy to sell the power assets of the Southeastern Power Administration [SEPA] through a competitive bidding process. The provision also requires the Secretary to sell any water resources projects of the Corps of Engineers—which is under the jurisdiction of the sec-

retary of the Army—that provide hydroelectric power in the SEPA service area.

The Corps of Engineers funds, builds, and operates water resources projects throughout the Nation. Some of these have been authorized by Congress, through legislation managed by this committee, to include hydroelectric power generating, or hydropower, facilities. Within the SEPA area there are 22 corps projects containing hydropower facilities. Such facilities were included only after thorough planning and design efforts by the corps to assure that their operation would not conflict with other authorized (and dominant) project purposes, such as flood control and navigation. Hydropower is not the primary purpose at corps projects; it is included as part of multipurpose projects.

Under current law, power generated at these projects which is surplus to project needs is turned over to the Secretary of Energy for marketing through one of its five Power Marketing Administrations [PMA's]. The rates set by the PMA's under current law must allow for the payment of Federal appropriations spent annually by the corps to produce and transmit power and the repayment of the initial Federal investment over a 50-year period. Thus, while the Department of Energy's PMA's market the power generated at the projects, the projects themselves are within the programs of the Corps of Engineers.

Any proposal to divest the Federal Government of corps projects or facilities at corps projects must take into account the consequences to all project purposes. While the major purposes are normally flood control and/or navigation, other purposes frequently are included in the project authorization or added subsequent to initial construction. Some of these include benefits for water supply, recreation, water quality, and fish and wildlife resources. It is impossible to separate hydropower operations and facilities from other project components without affecting the project's impact on other beneficial purposes. Similarly, one cannot change the operation of a multipurpose project to maximize hydropower benefits without causing significant, possibly catastrophic, impacts for the beneficiaries of other project components.

Initiatives to separate a portion of a project's operation or facilities from that of the base project, or to change the thrust of the project, must be thoughtfully addressed by the committee having jurisdiction. To do otherwise would likely lead to unintended consequences, such as flooding of areas designed to be protected from flooding by the project; cessation of commercial navigation due to the failure of the project to maintain adequate water depths; and the disruption of municipal water supplies and water-based recreation resulting from altered or fluctuating reservoir levels.

While the committee recognizes and appreciates the pressures all committees are under to generate meaningful savings, it strongly opposes any proposal that could result in the potential consequences addressed above. Major proposals such as this must be made only after a thorough, public review, should address hydropower facilities nationwide, and should address hydropower facilities of both the Bureau of Reclamation and the Corps of Engineers.

The committee's provision assures that the problems addressed above will not occur by prohibiting the sale of Corps of Engineers

projects or features of projects. The provision would provide, however, that initiatives to privatize the marketing of power that involve power generated at corps hydroelectric facilities, to the extent that such initiatives are authorized, are to be facilitated by the Secretary of the Army to the maximum practicable extent and consistent with authorized project purposes. The committee notes that under current operational conditions substantial hydroelectric power is generated at corps projects. For example, in fiscal year 1990, corps statistics indicate that over 920 million MWH were generated at the 22 Corps hydropower projects in the SEPA area. The committee is of the opinion that its provision will not substantively affect the provision adopted by the Committee on Resources with respect to scoring for budget reconciliation purposes.

Sec. 10003

This provision would authorize the Federal Emergency Management Agency [FEMA] to collect fees from licensees of commercial nuclear power plants to recover costs associated with the development of community radiological emergency response plans. In March of 1995, in response to a directive in the fiscal year 1993 VA–HUD Independent Agencies Appropriations Act, FEMA developed final regulations for the assessment and collection of such fees. The collection of fees has been directed on a year-by-year basis. The provision would make the authority permanent through fiscal year 2002.

Under the provision, the fees to be established shall be fair and equitable and shall reflect the full amount of FEMA's costs of providing radiological emergency services. Such services include emergency planning, preparedness, response, and associated services.

PURPOSE OF SUBTITLE B—OCEAN SHIPPING REFORM ACT

The purpose of this subtitle, the Ocean Shipping Reform Act of 199, is to substantially deregulate the ocean shipping industry and eliminate the Federal Maritime Commission [FMC] by the end of fiscal year 1997. The committee believes that this subtitle will foster an international ocean transportation industry that is driven much more by the rigors of the marketplace rather than by governmental regulation.

The Shipping Act of 1984 was enacted to respond to several major problems that existed at that time concerning ocean shipping practices. The 1984 act clarified the scope of antitrust immunity for ocean common carriers, maintained Government tariff filing and enforcement, established the right of independent action on conference filed tariffs, and allowed carriers or conferences to enter service contracts with shippers under certain conditions. As directed under section 18 of the 1984 act, the Advisory Commission on Conferences on Ocean Shipping conducted a comprehensive study of conferences in ocean shipping, including nearly all relevant issues in the 1984 act. The Advisory Commission issued its final report in April, 1992. The Advisory Commission members were chosen from a wide range of interests affected by ocean shipping from the private sector, the Congress, and the administration, and were unable to agree on any recommendations for changes to the 1984 act. Although the 1984 act was labelled deregulatory, it

maintained an ocean shipping regulatory system that has prevented true competition from existing in this important mode of transportation.

In today's rapidly changing and expanding global trading economy, this lack of marketplace flexibility is unacceptable. U.S. businesses find themselves shackled to a system which does not permit normal business interactions and transactions that exist in virtually, every other sphere of the world's economy. Individual carriers and shippers cannot discuss the price and terms of shipping goods without being forced to share those discussions with competitors. The inhibiting effect of this situation on innovation and flexibility cannot be understated. Further, the benefits of true marketplace price competition cannot be realized.

The bill amends the Shipping Act of 1984 (46 App. U.S.C. 1708 et seq.) (1984 act) to:

Ensure a mandatory right of independent action on ocean shipping contracts for all carriers operating within shipping conferences on January 1, 1997.

The 1984 act established the right of independent action for conference members on any rate or service item agreed upon by the conference. The 1984 act did not extend this right to contracts, and allows conferences to prohibit conference members from signing individual contracts with shippers.

The committee believes that this situation has frustrated the ability of carriers and their customers to form the close commercial ties that produce business efficiencies. Under this subtitle, conferences may not interfere in any way, directly or indirectly, with the right of individual conference members to sign ocean transportation contracts with the shippers of their choice. Also under this subtitle, the narrow "service contract" concept has been replaced with the broad definition of "ocean transportation contract" to include all types of contracts between carriers and shippers to provide services.

Eliminate government tariff enforcement and regulation on January 1, 1997, and eliminate Government tariff and contract filing requirements on June 1, 1997.

The 1984 act requires ocean common carriers to file their rates, or tariffs, with the FMC, and requires the FMC to enforce those rates. The 1984 act also requires the essential terms of service contracts to be filed with the FMC, and made available to similarly situated shippers.

No other country has this type of tariff system, nor does any other country have government enforcement of rates. This type of regulatory system does not exist for other modes of transportation today. Finally, there are many exceptions to the existing tariff filing regime. For example, many commodities are exempt from the tariff filing requirement in the 1984 act. Also, for cargo shipped through a Canadian or Mexican port, there is no public tariff filing or enforcement requirement. Today, carriers and shippers can do business successfully in foreign-to-foreign trades where government tariff filing does not exist.

It is the committee's experience that with other transportation modes that carriers and shippers do business more effectively with less government regulation of transportation rates. In fact, Amer-

ican exporters are currently at a disadvantage because their transportation costs are public, where their foreign competitors' costs are not made public. Elimination of tariff filing and enforcement will allow closer and more satisfactory relationships between shippers and carriers, to the benefit of the American consumer.

Provide authority for shippers and carriers to agree to completely confidential service contracts, beginning on January 1, 1998.

This subtitle allows carriers and shippers to freely negotiate transportation contracts and maintain the confidentiality of the terms of those contracts. Confidential business terms are allowed in every other transportation sector, as well as virtually every other sector of the world economy, with benefits accruing to the parties to the contract and to the ultimate consumer of goods transported. Confidential contracts are currently used in many foreign-to-foreign trades with beneficial results.

The committee rejects the argument that confidential, secret contracts will work to the disadvantage of small shippers. Today, small shippers have no advantages over large shippers, because the only distinguishing factor allowed under the current ocean transportation system is volume. Under the ocean shipping regime provided in this bill, small shippers will have more flexibility to bargain for attractive shipping contract terms, because volume will not be the only important factor in the ocean shipping system. Shippers generally will have the freedom to bargain for the best prices possible, without conference interference.

Retain current system of oversight and filing requirements for carrier conference agreements under the 1984 act.

This subtitle does not disturb the exemption from the antitrust laws that currently exists under the Shipping Act of 1984. The bill also preserves the 1984 act system of filing of carrier agreements and Government oversight over those agreements.

This subtitle provides for an orderly transition to a more market-based system that will better serve the interests of consumers, shippers, and ocean carriers. The subtitle allows the current system of ocean carrier conferences to continue. These conferences presently enjoy a broad grant of immunity from the antitrust laws of the United States, and that grant of immunity is unaffected by this bill. These conferences meet, discuss, and frequently determine what the price of shipping particular goods between specific points will be. While this approach is counter to the usual approach the United States has taken toward concerted economic activity, it has been the legal and policy approach of the United States for nearly 100 years. Discarding it overnight would be detrimental to all U.S. interests. The bill provides very significant reforms to ocean shipping, but preserves much of the existing conference structure while the reforms provided by this bill are phased in and take root over the next several years.

While conferences will continue to discuss and set shipping prices, this subtitle removes significant business activity from their control, enabling carriers, shippers, and others to enter into flexible, innovative, and competitive arrangements to ship goods. Carriers and shippers will be able to enter into ocean transportation contracts with each other without hindrance or oversight from a conference.

The expectation is that over time, carrier/shipper business relations will be increasingly governed by contracts negotiated outside of the conference system. Again, the purpose is to permit opportunities for flexibility, innovation, and price competition to flourish. For those business people comfortable with the features of the existing common carrier system, it will continue to exist and be available.

The exemption from the U.S. antitrust laws for ocean carriers has existed since 1916, and is the policy of our international trading partners. Unilateral action by the United States to revoke antitrust immunity would disrupt international trading conditions and unfairly disadvantage U.S. carriers. It will also discourage investment in U.S.-flag shipping. Another important reason to maintain the current scope of antitrust immunity for carriers in trade with the United States is the concern that the antitrust laws would not be uniformly enforced, and that U.S. carriers would be unfairly targeted for antitrust prosecution because of the difficulty of enforcing the antitrust laws abroad.

The committee supports the current exemption from the antitrust laws under the 1984 act, but is concerned that certain concerted behavior on the part of ocean conferences has abused the grant of immunity under the 1984 act. The antitrust exemption is intended to allow carriers and conferences to cooperate in efficiency enhancing practices. The exemption is not intended to endorse anticompetitive practices on the part of conferences. The conference that operates in the North Atlantic trade, know as the Trans-Atlantic Conference Agreement, has engaged in practices that have been criticized as anti competitive. The committee believes that the amendments made by this bill weaken the concerted ratemaking authority of conferences, and discourage future anticompetitive behavior on the part of conferences. The ocean shipping system established under this bill preserves the status quo concerning antitrust immunity, and is intended to allow ocean carriers to address their common concerns and within the agreement oversight structure of the 1984 act.

Strengthen laws related to unfair trade practices of foreign carriers and foreign governments.

This subtitle contains new tools to address the potential of unreasonable, predatory, or anticompetitive pricing behavior in the new, more competitive system of ocean shipping established under this bill.

Transfer the remaining responsibilities of the Federal Maritime Commission to the Secretary of Transportation, between October 1, 1995, and October 1, 1997, and eliminate the FMC as an independent agency, by the end of fiscal year 1997.

The primary responsibility of the FMC is to administer the Shipping Act of 1984. This subtitle repeals the most significant regulatory functions of the 1984 act, including tariff filing and enforcement. The committee believes that the residual functions of the Federal Maritime Commission are most appropriately consolidated within the Department of Transportation.

The subtitle will eliminate the Government from the business of being the repository and the enforcer of the prices set by the carrier conferences. Presently, prices, or tariffs, are filed with the

FMC and if a carrier or shipper deviates from that filed tariff, they are subject to FMC enforcement action. This is an outmoded approach toward the regulation of transportation that neither fits with nor benefits the contemporary business climate and marketplace. Under chapter 3 of this subtitle, the FMC will be abolished on October 1, 1997. Its residual functions will be inherited by the Secretary of Transportation.

Consumers of other modes of transportation such as air passenger, air cargo, and trucking have been largely free of Government involvement in pricing for a number of years. The result in these modes has been more choices and better prices for the consumer. Some might argue that it is also more chaotic and less predictable, but it is the committee's experience that the American consumer accepts more pricing uncertainty—when it also results in lower consumer prices. By eliminating tariff filing with the FMC and eventually the FMC itself, the shipping public and the carriers will have removed a major impediment to pricing, service competition, and innovation.

The changes embodied in this bill are required for U.S. businesses and U.S. carriers to compete effectively in the world economy. Increasingly, if businesses and their employees are to succeed and prosper, they must be nimble in order to anticipate or respond to global business opportunities. The current ocean shipping regime under the 1984 act stifles the innovative spirit of American business people. This subtitle creates opportunities for American importers and exporters and will allow them to compete for a greater share of international business.

Finally, this subtitle is strongly supported by U.S. ocean carriers, the U.S. shipping community, as well as the Clinton administration. It represents a well balanced approach to the future of ocean shipping regulation.

PURPOSE OF SUBTITLE C—MIDEWIN NATIONAL TALLGRASS PRAIRIE

This subtitle incorporates the provisions of H.R. 714, the Illinois Land Conservation Act of 1995. H.R. 714, which would establish the Midewin National Tallgrass Prairie [MNP] in northeast Illinois, was approved by the Committee on Transportation and Infrastructure on June 14, 1995, and was passed in substantially the same form by the House of Representatives on July 31, 1995.

The purpose of the Illinois Land Conservation Act of 1995 is to provide for the orderly conversion of lands at the Joliet Army Ammunition Plant ("Joliet Arsenal") to the Midewin National Tallgrass Prairie [MNP] and other non-defense purposes. The total acreage involved is 23,500 acres—36.7 square miles. Of this amount, 3,000 acres would be transferred to the State of Illinois for use in economic redevelopment; 982 acres would be transferred to the Department of Veterans Affairs for use as a national cemetery; 455 acres would be transferred to Will County, Illinois for use as a landfill; and the remaining acreage would be transferred to the Department of Agriculture for management as the MNP. The Department of the Army would retain responsibility for environmental restoration of arsenal properties, including the cleanup of sites under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("Superfund").

In April of 1993, the Department of the Army announced the closing of the Joliet Arsenal, located in northeast Illinois, about 40 miles southwest of Chicago. The Joliet Arsenal was the Army's leading producer of munitions during World War II and was reactivated during the Korean and Vietnam conflicts; however, the Army determined that the arsenal is no longer required for use by the military.

Also in 1993, then-Congressman George Sangmeister formed the Joliet Arsenal Citizen Planning Commission to develop recommendations for use of arsenal lands. This action was taken based on the recognized opportunity to achieve multiuse benefits with arsenal lands. The Commission consisted of representatives from local, State and Federal agencies, local school districts and conservation groups, and the business community. The Commission developed a consensus plan in April of 1994 and revised its recommendations on May 30, 1995. This plan is reflected in the Proposed Future Land Use map provided to the Committee on Transportation and Infrastructure in June of 1995.

This subtitle would ratify in principle the proposals generally identified on the land use map and would result in resumed beneficial use of arsenal lands. The plan has four basic goals: First, reestablish prairie habitat for wildlife, recreational and educational purposes, through creation of the Midewin National Tallgrass Prairie [MNP]; second, create a national cemetery to satisfy the need for such a facility in the region; third, establish an area for economic redevelopment to partially compensate for lost economic activity due to the arsenal's closure; and fourth, establish a landfill for use by Will County and for use in the disposition of nonhazardous materials resulting from the Army's cleanup activity at the arsenal. These goals will be achieved without reducing the Army's responsibility for any environmental cleanup work that is required under existing law.

PURPOSE OF SUBTITLE D—MISCELLANEOUS

Sec. 10401

This provision maintains the current level of vessel tonnage duties through fiscal year 2002.

The United States imposes a tonnage duty on a vessel which enters the United States from any port or place. The duty is also imposed on a vessel which departs from and returns to a U.S. port or place on a "voyage to nowhere".

The tonnage duty is imposed on the cargo-carrying capacity of the vessel and is assessed regardless of whether the vessel is empty or is carrying cargo.

A vessel arriving from a foreign port in the northern Western Hemisphere—Canada Mexico, Central America, West Indies, Bahamas, Bermuda, and northern South America—and a vessel returning from a "voyage to nowhere" must pay a tonnage duty of 9 cents per ton. However, the maximum payment for any vessel in a single year is 45 cents per ton.

A vessel arriving from a foreign port anywhere else in the world must pay a tonnage duty of 27 cents per ton, not to exceed $1.35 per ton in a single year.

Under current law, after fiscal year 1998, the tonnage duties will revert to earlier, lesser amounts—2 cents per ton, not to exceed 10 cents per ton in a single year for vessels entering from the northern Western Hemisphere and from "voyages to nowhere—6 cents per ton, not to exceed 30 cents per ton for other vessels subject to the duty.

Sec. 10402

This section requires the Administrator of the General Services Administration to sell Governors Island, NY, at fair market value. The section waives all provisions of the Federal Property and Administrative Services Act, as amended, and gives the State of New York and the city of New York a right of first refusal to purchase the property. The proceeds of the sale will be deposited in the miscellaneous account of the U.S. Treasury.

Governors Island is located in New York harbor, south of Manhattan and west of Brooklyn. It houses the largest Coast Guard facility in the world, Support Center New York, which provides support for commands stationed on the island. The 172-acre island is surrounded by a seawall and is reached by ferry from Manhattan.

The Coast Guard must reduce its operating costs by $400 million over the next 4 years. To reach that goal, the Coast Guard has developed a streamlining plan that includes a closure and relocation of the Coast Guard facilities on Governors Island.

The Coast Guard estimates that it will require 2 years to move Coast Guard facilities from Governors Island to new locations.

Sec. 10403

The Administrator of General Services is authorized and directed to sell, before the end of fiscal year 1996, at fair market value, the air rights north of Union Station, Washington, DC. There are approximately 16.3 acres of air rights, or air space above train tracks that could be developed into commercial property, with parking. As recently as 1992 these air rights were valued by an appraisal performed for GSA at $50,000,000. This figure is net of any cost to build a platform, or lid, which is necessary to support the development of a building.

These air rights are bounded on the south by Union Station, on the east by the CSX property and Second St. NE., on the north by K St. NE. and on the west by 1st St. NE. H St. NE. overpass cuts through the air rights, running east-west. These air rights are currently owned by the Department of Transportation, and AMTRAK. An amendment adopted in committee would require AMTRAK to transfer, at no cost, its air rights, estimated to be approximately 10.6 acres, to the Department of Transportation. The Administrator of General Services would then sell the air rights in a manner to be determined.

PURPOSE OF SUBTITLE E—ECONOMIC DEVELOPMENT ADMINISTRATION AND APPALACHIAN REGIONAL COMMISSION

An amendment was adopted in committee that substantially consisted of the text of H.R. 2145, the Economic Development Partnership Act of 1995. Nearly identical language was adopted by the committee on September 14, 1995, in full committee markup of

H.R. 1756, a bill to eliminate the Department of Commerce. The final language to included as part of the Commerce elimination portion of reconciliation will be determined in consultation with the Government Reform and Oversight Committee.

HEARINGS

The Committee on Transportation and Infrastructure's Subcommittee on Railroads held a hearing on September 14, 1995, to evaluate the administration's proposed extension and expansion of Federal rail safety user fees; the fees expire under current law on September 30, 1995. The fees, which are deposited in the general Treasury accounts, offset most of the safety activities of the Federal Railroad Administration.

A key condition to enactment of the original fee legislation in 1990 was a proviso [49 U.S.C. 20115(d)] that the Secretary of Transportation was to report within 90 days after the close of each fiscal year, the amount of fees collected, the impact of the fees on the financial health and competitive position of the rail industry, and the total cost of other federal safety activities for competing modes of transportation, including the portion of such activities defrayed by user fees. If the Secretary found in such an annual report either an adverse financial or competitive impact on the industry, or a significant difference in the burden of federal user fees between the rail industry and competing modes of transportation, he was required to submit corrective legislation within 180 days after the close of the fiscal year.

The following is the DOT/FRA record in complying with the foregoing impact evaluation reporting requirements:

Reporting period submission	Due date	Actual
Fiscal year 1991	Dec. 31, 1991	September 1992.
Fiscal year 1992	Dec. 31, 1992	March 1993.
Fiscal year 1993	Dec. 31, 1993	November 1994.
Fiscal year 1994	Dec. 31, 1994	Not yet submitted.

Testimony was received from the Federal Railroad Administration, the Association of American Railroads, the Regional Railroads of America, the American Short Line Railroad Association, and the American Public Transit Association. The Administration supported renewal and expansion of the fees and the dropping of the annual impact evaluation reporting requirement as "not serving a useful purpose." All other witnesses opposed renewal of the fees because of their discriminatory and unfair competitive impact on railroads compared with other modes of transportation. Small railroads in particular contended that the user fees amount to a substantial increase in their federal tax burden, and often mean the difference between profit and loss.

SECTION-BY-SECTION ANALYSIS

SUBTITLE A—WATER RESOURCES

Sec. 10001. Commercial concessions at Corps of Engineers projects

This section assures that existing concession policies for commercial activities at Corps of Engineers projects are maintained.

Sec. 10002. Prohibition on sale of Corps of Engineers projects

This section precludes the sale of Corps of Engineers projects, facilities and lands that might otherwise be required to allow the privatization of power marketing. The amendment would also provide that initiatives to privatize the marketing of power that involve power generated at Corps hydroelectric facilities be facilitated by the Secretary of the Army to the maximum practicable extent.

Sec. 10003. FEMA radiological emergency preparedness fees

This section authorizes the Federal Emergency Management Agency [FEMA] to collect fees from licensees of commercial nuclear power plants to recover costs associated with the development of community radiological emergency response plans. The collection of fees has been directed on a year-by-year basis. This section makes the authority permanent through fiscal year 2002.

SUBTITLE B—OCEAN SHIPPING REFORM

Sec. 10201. Short title

This section states that this subtitle may be cited as the "Ocean Shipping Reform Act of 1995."

Chapter 1—Ocean Shipping Reform

Sec. 10211. Purposes

Section 10211 of this subtitle amends section 2 of the Shipping Act of 1984 (1984 Act) (46 App. U.S.C. 1701) to add an additional purpose to the 1984 act. This purpose, "to permit carriers and shippers to develop transportation arrangements to meet their specific needs", is added to emphasize that the amendments made by this bill are intended to give ocean carriers and shippers the flexibility and the freedom to choose the most desirable business arrangements for transportation of goods in the U.S. foreign commerce, without restrictions imposed by ocean shipping conferences.

Sec. 10212. Definitions

Section 10212 of this subtitle amends section 3 of the 1984 act related to definitions.

Paragraph 1 of this section, effective on January 1, 1997, amends section 3 of the 1984 act by striking paragraph (9), which contains the definition of "deferred rebate". Paragraph 2 of this section, effective on June 1, 1997, amends section 3 of the 1984 act by striking paragraphs (4), containing the definition of ("bulk cargo"), (10) ("forest products"), (13) ("loyalty contract"), (16) ("non vessel operating common carrier"), and (21) ("service contract"). The definitions stricken under this section are no longer necessary or relevant under the amendments to the 1984 act made by this subtitle.

Paragraph 2(B) of this section amends paragraph (7) of section 3 of the 1984 act, containing the definition of "conference". This amendment, effective on the date tariff filing is abolished, June 1, 1997, substitutes "a common schedule of transportation rates, charges, classifications, rules, and practices" in place of a "common tariff". This amendment is a technical clarification of conference operations after the repeal of tariff filing under this subtitle.

Paragraph 2(F) of this section amends paragraph (18) of section 3 of the 1984 act, containing the definition of "ocean freight forwarder". This amendment consolidates the definitions of "ocean freight forwarder" and "non-vessel-operating common carrier" into a new definition of "freight forwarder" for the purposes of the amendments made by this subtitle.

Paragraph 2(H) of section 102 of this bill amends paragraph (23) of section 3 of the 1984 act concerning the definition of the term "shipper" to include "a shippers' association, or an ocean freight forwarder that accepts responsibility for payment of the ocean freight". This amendment is intended to place shippers' associations and ocean freight forwarders on a equal footing as to eligibility to enter ocean transportation contracts with ocean carriers under the amendments made by this subtitle.

Paragraph 2(I) of this section contains a technical amendment to the definition of "shippers' association" to substitute "ocean transportation contracts" in place of "service contracts".

Paragraph 2(J) of section 102 of this subtitle adds a definition of a new term "ocean transportation contract". An "ocean transportation contract" is defined as "a contract in writing separate from the bill of lading or receipt between one or more common carriers or a conference and one or more shippers to provide specified services under specified rates and conditions." The committee intends that the definition of ocean transportation contract be interpreted broadly, to include all types of transportation arrangements that may be agreed to between shippers and carriers. Unlike the definition of "service contract", which was repealed by paragraph 2(G) of this section, an "ocean transportation contract" is intended to encompass transportation agreements, regardless of their costs, duration, service commitments, geographic scope, or other term or condition. The definition of "ocean transportation contract" allows carriers to enter joint contracts and conference contracts, including contracts in which a group of carriers, either operating as a conference, within a conference, or otherwise, join together and enter into a contract with a shipper or shippers.

Sec. 10213. Agreements within the scope of the act

Sec. 10213 of this subtitle amends section 4(a)(5) of the 1984 act (46 app. U.S.C. 1703(a)), effective on June 1, 1997, to reflect consolidation of non-vessel-operating common carriers and freight forwarders under this subtitle.

Paragraph 2 of section 10213 of this subtitle amends section 4(a)(7) of the 1984 act to eliminate agreements by or among ocean common carriers to regulate or prohibit their use of service contracts from the scope of the 1984 act or the amendments made by this subtitle, and include within the scope agreements to discuss matters related to ocean transportation contracts, and agreements to enter into ocean transportation contracts and other agreements related to those contracts.

The amendment is made to clarify that the amendments to the 1984 act made by this subtitle remove the ability of conferences to prohibit the members of the conference from negotiating or entering individual ocean transportation contracts and from imposing mandatory guidelines or requirements on the negotiations or con-

tent of ocean transportation contracts entered into by individual conference members.

The committee intends that the amendments made by this subtitle to sections 5 and 8 of the act, adding prohibitions on activities by a conference to regulate or prohibit contracting by its individual members, are not expressly or impliedly overridden by section 4(a) of the 1984 act. Further, in adopting the language in new section 4(a)(7), the committee does not intend to confer any authority upon conferences to enter binding agreements or engage in conduct prohibited by sections 5(b) (9) and (10) and section 8(b). The new language in section 4(a)(7) simply defines activities that are within the scope of antitrust immunity provided to ocean carriers under the act and is not intended to override or conflict with the new prohibitions and requirement contained in sections 5(b) (9) and (10) and section 8(b) imposed upon conferences concerning contracting by individual conference members. The committee also does not intend that agreements by carriers or conferences involving contracts are, under any amendment made by this bill, subject in any way to the antitrust laws. Ocean carrier agreements or guidelines involving contracts, including decisions to enter into or decline to enter into joint contracts, will continue to be within the scope of, and subject to the requirements of the 1984 act, and not the antitrust laws, to the same extent as under current law.

Claims that a conference is improperly restricting or prohibiting contracting activity are to be addressed under the 1984 act and not the antitrust laws.

Sec. 10214. Agreements

Section 10214 of this subtitle amends section 5 of the 1984 act (46 App. U.S.C. 1704), to impose certain requirements on conference agreements to ensure that shippers and carriers have unrestricted freedom to enter into ocean shipping arrangements. Paragraph (1) of section 104 of this subtitle, effective on January 1, 1997, amends section 5(b)(4) of the 1984 act to amend the requirement for conference agreements concerning policing of conference agreements. Paragraph (1) of this section also adds a new paragraph (9) to section 5(b) of the 1984 act requiring each conference agreement to provide that a member of the conference may enter into individual and independent negotiations and may conclude individual and independent service contracts under section 8 (as amended) of the act. Before June 1, 1997, the essential terms of those service contracts must continue to be filed with the Federal Maritime Commission.

Paragraph (2) of section 10214 of this subtitle, effective on June 1, 1997, further amends sections 5 (b) and (e) of the 1984 act. Paragraph (2)(A) of section 10214 amends subsection (b)(8) of the 1984 act to require each conference agreement to provide that any member of the conference may take "independent action" on any conference rate or service item for transportation provided under section 8(a) of the 1984 act upon not more than 3 business days notice to the conference. This amendment lowers the notice requirement for "IAs" from 10 calendar days to 3 business days, and will reduce the opportunity for conferences to deter or interfere with their members' desires to deviate from conference rates.

Paragraph 2(B) of section 10214 amends new subsection (b)(9) to reflect the transition from service contracts to ocean transportation contracts, effective on June 1, 1997.

Paragraph 2(C) of section 10214 adds a new paragraph (10) to section 5(b) of the 1984 act that requires each conference agreement to prohibit the conference from: (A) prohibiting or restricting the conference members from engaging in negotiations for ocean transportation contracts; and (B) issuing mandatory rules or requirements affecting ocean transportation contracts.

The prohibitions of section 5(b)(10) are applicable to mandatory guidelines enforceable by the conference. They do not extend to voluntary guidelines or agreements among conference members concerning their use of ocean transportation contracts, or to discussion of such guidelines within the conference. Such voluntary guidelines are similarly not precluded by sections 5(b)(10)(A) or 8(b)(4) of the act. Thus, for example, a conference may discuss and agree upon voluntary guidelines concerning matters such as contract cycles, currency and adjustment factors, bunker surcharges and other rates and charges. However, adoption of voluntary guidelines or agreements among conference members concerning ocean transportation contracts shall not bind or impose any obligations or requirements on any individual conference member. Thus, a member line could not be prevented, penalized, or otherwise disciplined by the conference if it chooses to deviate from these guidelines and enter a contract that differs from these guidelines.

The committee notes that sections 5(b) (9) and (10) refer to "individual" or "independent" negotiations and contracts. These references are not intended to suggest that joint contracts are impermissible.

Paragraph 2(D) is a technical amendment to section 5(e) of the 1984 act to reflect the elimination of the requirement to file tariffs with the Federal Maritime Commission, effective on June 1, 1997.

Other than conforming changes to reflect the transfer of functions from the Federal Maritime Commission to the Secretary of Transportation, this subtitle does not alter current standards and procedures governing the filing, approval, and oversight of agreements entered by ocean carriers under section 4 of the 1984 act. Current agreement filing and review procedures and standards, including existing standards and practice under sections 5 and 6 of the act, will be retained in full. The legislative history as to agreement filing and approval that accompanied the 1984 act remains authoritative in the construction of the 1984 act as amended by this subtitle, including in particular the discussion of sections 6 (g) and (h) included in the Joint Explanatory Statement of the Committee of Conference for the 1984 act. (See H. Conf. Rep. No. 600, 98th Cong., 2d Sess. 31–37.) The Secretary of Transportation, however, will now be responsible for administering the standards and requirements contained in sections 6 (g) and (h).

Under the 1984 act, no private person may bring an action under section 6(g) to challenge an agreement as being substantially anticompetitive since that authority is only provided to the administering body of the 1984 act, now the Secretary of Transportation. The committee notes that this limitation on private causes of action requires the Secretary of Transportation to review, monitor, and en-

force agreements entered under section 4 of the act to ensure that shippers and other purchasers of ocean transportation services are adequately protected from agreements that engage in conduct that falls within the standard of section 6(g). Further, any commercial party which deals with agreements entered under section 4 of the 1984 act should be provided with a means for submitting information to the Secretary in the event that they experience problems or harm resulting from substantially anticompetitive conduct on the party of an agreement.

Sec. 10215. Exemption From the Antitrust Laws

Section 10215 of this bill amends section 7 of the 1984 act (46 App. U.S.C. 1706), to clarify the exemption from the antitrust laws for agreements, modifications, or cancellations in effect before the effective date of this act and for tariffs, rates, fares, charges, classifications, rules, or regulations implementing the agreements, modifications, or cancellations. Section 105 also amends section 7(e) of the 1984 act to include "department" along with "agency or court" as potential decision-makers regarding the grant of antitrust immunity under this act, in preparation for the transfer of conference oversight responsibilities under this subtitle to the Secretary of Transportation.

The scope of antitrust immunity conferred by section 7 of the 1984 act, in conjunction with sections 4 and 5 of the 1984 act, is retained under this subtitle.

Sec. 10216. Common and contract carriage

Section 10216 of this subtitle repeals section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 App. U.S.C. 1707a) related to the Federal Maritime Commission's automated tariff filing and information system, effective on June 1, 1997. Also effective on June 1, 1997, section 10216 amends section 8 of the 1984 act (46 App. U.S.C. 1707) to abolish the requirement to file tariffs and essential terms of service contracts with the Federal Maritime Commission, and to replace that system with a more flexible and responsive regime for ocean transportation.

This amendment does not preclude carriers, conferences, or others from using, publishing, and adhering to private, unfiled schedules of transportation rates, charges, classifications, rules and practices, after the current statutory requirements concerning Government tariff filing and enforcement are eliminated. For example, removal of the express reference to tariffs in the definition of a "conference" under the amendments contained in this subtitle is a conforming change and does not work any substantive change in statutory or regulatory treatment of conferences under the 1984 act or the amendments made by this subtitle, or their ability to agree on matters currently set forth in tariffs. Thus, as a part of its collective ratemaking activity, a conference would still be permitted to utilize a common schedule of transportation rates which may include rates, charges, rules, ocean freight forwarder compensation, and other noncontract terms governing the ocean and intermodal transportation rates a "tariff." However, despite any use of the term "tariff," the "files rate doctrine" under the 1984 act is no longer applicable. Paragraph (2) of section 10216 of this bill re-

places section 8 of the 1984 act related to tariffs with a new section 8 that requires common carriers or conferences to make their schedule of rates for transportation services available in writing to any person upon request. Subsections (a)(2) and (a)(3) of new section 8 require disputes between a common carrier or conference and a person concerning certain items related to transportation services under subsection (a)(1), and claims concerning a rate for ocean transportation services which involves false billing, false classification, false weighing, false report of weight, or false measurement, to be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

Subsection (b) of new section 8 contains the authority for one or more common carriers or a conference to enter into an ocean transportation contract with one or more shippers. Under this subsection, an ocean common carrier may enter into ocean transportation contracts without limitations concerning the number of contracts or the amount of cargo or space involved. The committee intends that this authority allow common carriers and shippers to enter into whatever ocean transportation contracts that meet the needs of their companies, without restrictions on the terms or conditions of the contracts, and without restrictions or interference by conferences.

New subsection 8(b)(2) provides that a party to an ocean transportation contract shall have no duty in connection with services provided under the contract other than the duties specified by the terms of the contract. This provision is based, in part, on a similar contracting provision applicable to railroads, contained in the Staggers Rail Act of 1980. The provision is intended to ensure that ocean transportation contracts are treated as any other contract entered between two business parties regardless of the subject matter of the contract. Section 8(b)(2) serves to emphasize that the agreed upon terms of an ocean transportation contract shall govern the conduct of the parties to the contract and that the terms of the contract shall be enforced by the courts under the general principles of common law contracts.

New subsection 8(b)(3)(A) provides that an ocean transportation contract or the transportation provided under that contract may not be challenged in any court on the grounds that the contract violated a provision of this subtitle. New subsection 8(b)(3)(B) provides that the exclusive remedy for an alleged breach of an ocean transportation contract is an action in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

New subsection 8(b)(4) clarifies that the requirements and prohibitions concerning contracting by conferences contained in sections 5(b) (9) and (10) of this subtitle shall also apply to any agreement among one or more ocean common carriers that is filed under section 5(a) of this subtitle.

Subsection (b) of section 10216 of this subtitle adds a new paragraph (5) to amended section 8(b) of the 1984 Act to allow carriers and shippers to agree to make ocean transportation contracts on a confidential basis, effective on January 1, 1998. Under paragraph (5), an ocean common carrier that is a member of a conference agreement may not be prohibited or restricted by the conference from agreeing that the parties to the contract will not disclose any

matter related to the ocean transportation contract to any person or entity, including any member of the agreement, the conference, any other carrier, shipper, or conference, or any other third party. The only exception to this confidentiality requirement is contained in new section 5(b)(10), which allows a conference to require a member of a conference to disclose the existence of an individual ocean transportation contract, but none of the terms or conditions contained in the contract, when the conference enters negotiations on an ocean transportation contract with the same shipper.

Sec. 10217. Prohibited acts

Section 10217 of this bill amends section 10 of the 1984 act (46 App. U.S.C. 1709) to repeal certain paragraphs of section 10 that are no longer necessary or relevant to the new deregulated system of ocean transportation established by this bill. Section 10217 also amends certain paragraphs in section 10 of the 1984 act to tailor them to the requirements of amendments made by this subtitle.

Paragraph (1) of section 10217 of this bill amends subsection 10(b)(1) of the 1984 act, effective January 1, 1997, to establish one consolidated prohibited act concerning discrimination against common carriers providing that, except for service contracts, no common carrier, either alone or in conjunction with any other person, directly or indirectly, may subject a person, place, port, or shipper to unreasonable discrimination. Paragraph (1) also repeals the prohibited acts contained in the following paragraphs of section 10(b) of the 1984 act: (2) concerning rebates; (3) concerning privileges not in accordance with tariffs or service contracts; (4) concerning the use of false means to obtain transportation at less than tariff rates; and (8) concerning deferred rebates.

Paragraph (2) of section 10217 of this subtitle amends subsection 10(b) of the 1984 act to abolish certain prohibited acts, including paragraphs: (6) concerning unfair or unjustly discriminatory practices, (9) concerning loyalty contracts, (10) concerning unjust discrimination between shippers or ports, and (11) concerning undue preference or advantage.

New subsection 10(b): retains the prohibited act concerning retaliation against shippers (formerly paragraph (2)); expands the prohibited act against an unreasonable refusal to deal to include any class or type of shipper (formerly paragraph (12)); retain the prohibited act against a refusal to negotiate with a shippers' association (formerly paragraph (13)); makes technical amendments to the prohibited act against knowingly accepting cargo from an unbonded non-vessel-operating common carrier [NVOCC] to reflect the consolidation of NVOCC's and freight forwarders under this bill (formerly paragraph (14)); and makes similar technical amendments to the prohibited act against knowingly entering into a service contract with an unbonded NVOCC (formerly paragraph (15));

New subsection 10(b)(8) (formerly paragraph (16)) contains an additional paragraph that, after December 31, 1997, prohibits the disclosure of the terms of ocean transportation contracts under paragraph (8) if the contracts has been made on a confidential basis. This new paragraph also establishes an action for breach of contract as an exclusive remedy for a disclosure under this paragraph.

Paragraph (3) of section 10217 of this bill makes several additional amendments to section 10 of the 1984 act, effective June 1, 1997. Section 10(c)(1) of the 1984 act concerning boycotts or concerted action resulting in an unreasonable refusal to deal is amended to include a policy or practice that results in an unreasonable refusal to deal. This amendment is intended to enlarge the concept of unreasonable refusal to deal under the 1984 act to include policies that effectively preclude parties from doing business in the marketplace. For example, any concerted practice that targets freight forwarders or nonvessel-operating common carriers in order to keep them from competing in the marketplace is unacceptable under this paragraph.

Section 10(c)(5) of the 1984 act is amended to limit ocean freight forwarder compensation under that paragraph to persons who perform the functions described in section 3(14)(A), as amended by this subtitle. Section 10(c)(6) of the 1984 act is amended to reflect the substitution of ocean transportation contracts for service contracts in the new shipping regime created by the amendments to the 1984 act made by this subtitle.

Paragraph (4) of section 107 of this makes a technical amendment to section 10(d)(3) of the 1984 act to conform to the amendments made to the prohibited acts contained in section 107 of this subtitle.

Sec. 10218. Reparations

This section amends section 11(g) of the 1984 act (46 App. 1710(g)) to make countercomplainants eligible for reparations under this section, and make other changes in the section to conform to amendments made under other sections of this subtitle.

Sec. 10219. Foreign laws and practices

This section amends section 10002 of the Foreign Shipping Practices Act of 1988 (46 App. U.S.C. 1710a) to make technical and conforming changes consistent with amendments made under other sections of this subtitle.

Sec. 11220. Penalties

Section 11220 of this bill amends section 13 of the 1984 act (46 App. U.S.C. 1712), effective on June 1, 1997, to amend the appropriate penalties for certain violations of this subtitle to conform to amendments made under other sections of this subtitle.

Sec. 11221. Reports

Section 11221 of this subtitle repeals section 15(b) of the 1984 act (46 App. U.S.C. 1714) relating to certification by the Federal Maritime Commission of policies concerning rebating.

Sec. 11222. Regulations

Section 11222 of this bill repeals section 17(b) of the 1984 act (46 App. U.S.C. 1716(b)) dealing with interim rules and regulations that were authorized to implement the 1984 act.

Sec. 11223. Repeal

Section 113 repeals section 18 of the 1984 act (46 App. U.S.C. 1717) which required the study on the 1984 act completed in 1992 by the Advisory Commission on Conferences in Ocean Shipping.

Sec. 11224. Ocean freight forwarders

Sec. 11224 of this bill amends section 19 of the 1984 act (46 App. U.S.C. 1718) to conform the application of section 19 with the expanded definition of ocean freight forwarder under this subtitle to include nonvessel-operating common carrier.

This section also clarifies that the bonding requirements under the 1984 act and the amendments made by this subtitle apply to all freight forwarders under this subtitle. Finally, this section prohibits a conference or group of two or more ocean common carriers from agreeing to limit compensation to an ocean freight forwarder who performs the functions as described in section 3(18)(A) of the amendments made by this subtitle to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a common schedule of transportation rates provided under section 8(a) of the 1984 act as amended by this subtitle.

Sec. 11225. Effects on certain agreements and contracts

Section 11225 of this subtitle amends section 20(e) of the 1984 act (46 App. U.S.C. 1719(e)) to provide the savings provisions related to service contracts entered into and lawsuits filed before the dates of enactment of the provisions of this subtitle.

Sec. 11226. Repeal

Section 11226 of this subtitle repeals section 23 of the 1984 act (46 App. U.S.C. 1721), concerning sureties for nonvessel-operating common carriers. The relevant sections of section 23 of the 1984 act are consolidated with the amendments made to section 19 of the act under section 11224 of this subtitle.

Sec. 11227. Marine terminator operator schedules

Sec. 11227 of this subtitle adds a new section 24 to the 1984 act, effective on June 1, 1997, to ensure that marine terminal operators continue to be compensated for transferring or protecting property from loss, complying with a governmental requirement, or storing property beyond the period originally agreed upon.

In many cases, necessary services are performed by terminal operators for the benefit of cargo without a contract or other agreement with the cargo owner. Because of the need for prompt and safe movement of cargo, there is no effective way to negotiate for providing terminal services before those services are rendered. Also, most government inspections of cargo occur at marine terminals, and terminal operators are required to comply with governmental requirements concerning cargo regardless of prior arrangements with the cargo owner.

New section 24 requires marine terminal operators to publish a schedule of rates, regulations, and practices, including limitations of liability, pertaining to receiving, delivering, handling, or storing property at its marine terminal. The schedule is enforceable as an implied contract, without proof of actual knowledge of its provi-

sions, for any activity by the marine terminal operator to transfer property, protect property, comply with governmental requirements, or store property beyond the terms of any prior agreement.

Chapter 2—Controlled Carriers Amendments

Sec. 10231. Controlled carriers

Section 10231 of this subtitle amends section 9 of the 1984 act (46 App. U.S.C. 1708), effective June 1, 1997, to broaden the group of ocean carriers to which the controlled carrier provisions, including the penalties, could potentially be applied. Under current law, the controlled carrier provisions apply only to carriers that are control by foreign governments. The reported bill would also apply these provisions to "* * * ocean common carriers that are not controlled, but who have been determined by the Secretary of Transportation to be structurally or financially affiliated with nontransportation entities or organizations (government or private) in such a way as to affect their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way that disadvantages an ocean common carrier or carriers.

The original purpose of the controlled carrier provisions is to ensure carriers that have the benefits of government ownership or control are subjected to scrutiny and, if warranted, penalties for unfair marketplace behavior that affects trade with the United States. The most significant benefit accruing from government control is the reduced need (or even no need) to make a profit in the transportation marketplace. Unfortunately, such scrutiny and penalties are necessary to ensure that government control or ownership does not become a marketplace advantage in setting prices that other nongovernment controlled carriers simply do not have.

While the best approach from a free and fair market perspective would be no government control of ocean carriers, not all nations are prepared to adopt that approach. The controlled carrier provisions ensure that the harmful effects of government control to the marketplace can be addressed and dealt with by our Government.

In adopting the changes to the controlled carrier provisions, the committee finds that in today's global economy, it is not just carriers that are government-owned, that can engage in unfair or anticompetitive pricing to the detriment of the marketplace. Carriers that are affiliated with other nontransportation entities can be similarly structured within an overall private organization so that the transportation element is not looked upon to generate a profit enabling transportation therefore to be offered at unfair or anticompetitive prices.

If this happens, the effect on the marketplace is no different than if a government controlled carrier engaged in this type of behavior. If we are concerned about how organizational relationships between a government and a carrier can distort marketplace behavior in ways that do harm to the marketplace, then we should have very similar concerns about structural or financial affiliations that may generate the same type of harmful marketplace behavior, even if they do not amount to government control as the term is understood today.

Section 10231 of this subtitle also sets out the process by which a complaint could be brought or initiated by the Secretary. It is not one that could or should be used lightly. The Secretary would have to make a multistep determination (after investigation and public hearings) that:

(1) a carrier was structurally or financially affiliated with a government or private non-transportation entity;

(2) that this affiliation was affected their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way; and

(3) that this affiliation harmed ocean common carriers. This is no small hurdle to cross before a determination could be made and penalties applied.

When the Secretary conducts such an investigation and makes a determination that penalties are warranted, he or she should have found that the prices initiated by such carriers are below fully allocated costs plus a reasonable profit. Such pricing behavior should cause remedial action by the Secretary when U.S. carriers are disadvantaged through substantial lost sales, unless such lost sales result from prices which meet, but do not undercut, the then-existing prices of a carrier in the trade.

The committee in no way believes this mechanism should be used routinely to regulate the prices charged in ocean shipping or engage in fishing expeditions related to pricing. The purpose of the provision is to zero in on specific problems in a particular market or trade and get the problems resolved. As a practical matter, the committee believes and observes that most such problems would likely be resolved through consultation and negotiation before the process established by this bill were fully completed.

The committee also observes that use of this process in a frivolous manner to cause the investigation of pricing that is lower than the market at any given time, yet is actually competitive pricing, would greatly undermine the value and intent of these legislative changes. The committee expects the Secretary to administer these provisions with this in mind.

This section also describes how information will be submitted to the Secretary and ensures that information submitted will be handled in a confidential manner.

Sec. 10232. Negotiating strategy to reduce Government ownership and control of common carriers

Section 10232 of this subtitle requires the Secretary of Transportation to develop and implement a negotiating strategy, not later than January 1, 1997, to persuade foreign governments to divest themselves of ownership and control of ocean common carriers.

Sec. 10233. Annual report to the Secretary

This section requires an annual report from the Secretary of Transportation on actions taken on foreign shipping practices, controlled carriers, and negotiations to end foreign government control of ocean carriers.

Chapter 3—Elimination of the Federal Maritime Commission

Sec. 10241. Plan for agency termination

Title I of this subtitle deregulates the ocean shipping industry and abolishes the major functions of the Federal Maritime Commission [FMC]. The committee believes that a separate agency is not warranted to carry out the residual functions of the FMC, and directs, no later than 30 days after the date of enactment of this act, the Director of the Office of Management and Budget, in consultation with the Secretary of Transportation, to submit a plan to Congress to eliminate the Federal Maritime Commission [FMC] by October 1, 1997. The plan must include a timetable for the transfer of FMC functions to the Secretary of Transportation as soon as possible in fiscal year 1996. The plan must also address personnel matters and other matters relevant to the transfer of remaining FMC functions. Other matters that should be addressed in the plan include technical legislative changes that should be made to abolish the FMC and transfer remaining functions to the Secretary.

The committee understands that the Director of the Office of Management and Budget has the inherent authority to implement the FMC phaseout plan as directed under this subsection (b) of this section. The committee emphasizes that all FMC functions that remain at the end of fiscal year 1997 must be transferred to the Secretary of Transportation, and not to any other department or agency.

The committee also emphasizes that the phaseout of the FMC must begin as soon as possible in fiscal year 1996. In the phaseout plan, the Director should consider FMC functions that could be transferred immediately to the Secretary of Transportation. Regardless, the Director must take whatever steps are necessary to ensure that all FMC functions are transferred by the end of fiscal year 1997, and that no appropriation will be necessary in fiscal year 1998 for FMC operations.

Finally, this section authorizes such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

SUBTITLE C—MIDEWIN NATIONAL TALLGRASS PRAIRIE

This subtitle incorporates the provisions of H.R. 714, the Illinois Land Conservation Act of 1995. H.R. 714, which would establish the Midewin National Tallgrass Prairie [MNP] in northeast Illinois. The subtitle provides for the conversion of the Department of the Army's Joliet Ammunition Plant ("Joliet Arsenal") to nondefense purposes.

In addition to establishing the MNP, the subtitle provides for the transfer of certain arsenal property to the Department of Veterans Affairs for use as a national cemetery; to Will County, IL, for use as a landfill; and to the State of Illinois for economic development. The subtitle also ensures that Army completes necessary environmental cleanup activities on arsenal properties under Superfund legislation and satisfies the requirements of other environmental laws prior to properties being converted to other uses.

SUBTITLE D—MISCELLANEOUS

Sec. 10401. Extension of higher vessel tonnage duties

This section maintains the current level of vessel tonnage duties through fiscal year 2002, consistent with the reconciliation instructions the committee received from the Budget Committee.

A vessel arriving from a foreign port in the northern Western Hemisphere (Canada Mexico, Central America, West Indies, Bahamas, Bermuda, and northern South America) and a vessel returning from a "voyage to nowhere" must pay a tonnage duty of 9 cents per ton. However, the maximum payment for any vessel in a single year is 45 cents per ton. A vessel arriving from a foreign port anywhere else in the world must pay a tonnage duty of 27 cents per ton, not to exceed $1.35 per ton in a single year.

Sec. 10402. Sale of Governors Island, NY

This section requires the Administrator of the General Services Administration to sell Governors Island, NY, at fair market value. The section waives all provisions of the Federal Property and Administrative Services Act, as amended, and gives the State of New York and the city of New York a right of first refusal to purchase the property. The proceeds of the sale will be deposited in the miscellaneous account of the U.S. Treasury.

Sec. 10403. Sale of air rights

This section directs the Administrator of the General Services Administration to sell approximately 16.5 acres of air rights adjacent to Washington, DC, Union Station at fair market value in a manner determined by the Administrator.

Included below is a 1992 GSA appraisal of these Union Station air rights at about $50 million:

SUMMARY OF CONCLUSIONS

Subject property—Lot 801 in square 715, part of lot 811 in square 717, parts of lots 172 and 823 in square 720, all located north of Union Station, Northeast, Washington, DC.

Date of valuation—March 18, 1992.

Date of inspection—March 18, 1992.

Date of report—April 6, 1992.

GROSS AREAS OF SITES

Site	Current use	Site area sf	Owner 3DI
Sq 720 lot 172	Garage	399,861	USRC
Sq 720 lot 823	H St-Rail yard	93,194	Amtrak
Sq 717 lot 811	H to K-Rail yard	411,561	USRC
Sq 715 lot 801	1st and K-Vacant	7,982	Kayfirst
Total		912,598	

Parcels analyzed.—Parcel 1—152,861 sq. ft.; Parcel 3—93,194 sq. ft.; platform B So/H part of Sq 720/172, 246,055 sq. ft. total.

Parcel 4—45,223 sq. ft.; Exist garage part of Sq 720/172 and 823, 45,223 sq. ft. total.

Parcel 5—335,435 sq. ft.; Platform A No/M part of Sq 717/811, 335,435 sq. ft. total.

Total air rights "Site"—626,713 sq. ft.

Parcel 6—7,982 sq. ft.; Square 715 lot 801 7,982 sq. ft. total.

Zoning—CM–3 and M.

Highest and best use—Appraised—special purpose as headquarters site for Department of Transportation or other U.S. Government agency.

Rights appraised—Air rights and fee simple rights, including existing garage deck and support and maintenance rights for platforms as specified in report.

Purpose of appraisal—Estimate fair market value of various rights for negotiation and condemnation purposes by General Services Administration.

Value conclusions, as of March 18, 1992, subject to all assumptions and conditions set forth within this report, are as follows:

Parcel number	*Value estimate*
Parcel 1 (Air rights)	$20,900,000
Parcel 3 (Air rights)	12,700,000
Parcel 4 (Air rights) including deck	9,700,000
Parcel 5 (Air rights)	6,400,000
Parcel 6 (Fee)	550,000

Please note that the conclusions reached herein were based on the information as set forth herein. Additional analyses, in the event that additional or new information is made available are outside of the scope of this assignment and additional arrangements would be necessary before additional analyses could be undertaken. The assumptions and conditions set forth throughout the report, including by not limited to environmental assumptions, structural assumptions, railroad operations assumptions and proposed building occupancy assumptions, are an integral part of this analysis and have a bearing on the conclusions reached herein. If professional (by others) investigation reveals that significant costs will be incurred in achieving these assumptions, the values estimated herein would be subject to change.

Sec. 10404. Parking fees

This section directs the Administrator of the General Services Administration to issue regulations requiring each executive agency to collect fees for the use of all parking facilities provided for the agency at Federal expense. Fees would be charged at fair market rates and would be deposited in the Treasury as miscellaneous receipts.

SUBTITLE E—ECONOMIC DEVELOPMENT ADMINISTRATION AND APPALACHIAN REGIONAL COMMISSION

Sec. 10501. Short title; Effective date

The Subtitle may be cited as the "Economic Development Partnership Act of 1995," with an effective date 6 months after the date of enactment.

Chapter I—Transfer of Functions of Economic Development Administration

Sec. 10511. Reauthorization of Public Works and Economic Development Act of 1965

Strikes the Public Works and Economic Development Act of 1965 and replaces it with EDA provisions of the reform bill, H.R. 2145. Also includes congressional findings of the need for Federal assistance to distressed areas. Section by section of EDA provisions of the reform bill as follows:

Title I—Economic Development Commission

Sec. 101. Establishment of Economic Development Commission

Establishes an independent Commission within executive branch.

Sec. 102. Establishment of Regional Commissions

Establishes the Regional Commissions based on the model used to set up the Appalachian Regional Commission. Sets requirements for Commission voting. Both the Federal cochairman and the States must agree on Commission decisions.

Sec. 103. Cooperation of Federal agencies

Encourages Federal agencies to cooperate with the Commissions.

Sec. 104. Administrative expenses

Establishes that the Federal Government and States each pay 50 percent of the administrative expenses of the Commissions. Each Commission shall allocate the share of expenses within a region. A State delinquent in its payments shall not be eligible to participate in Commission votes and shall not be eligible to receive assistance authorized by this act.

Sec. 105. Administrative powers

Lists a number of administrative powers necessary to operate the Commissions. The Commissions will have the authority to contract with the Office of Personnel Management to continue pension contributions for former Federal employees hired by the Commissions.

Sec. 106. Establishment of regions

Divides the Nation into eight Regional Commissions. No State shall be required to participate in any program under this act.

Title II—Grants for Public Works and Development Facilities

Sec. 201. Direct and supplementary grants

Provides authority to make grants for infrastructure projects, using the same language provided under title I of PWEDA. There is a 50-percent cost share for projects. Retains current authority to make supplemental grants to other Federal programs.

Sec. 202. Construction cost increases

Provides for increases in grant funding due to construction cost increases, at the discretion of the Commission.

Sec. 203. Use of funds in projects constructed under projected cost

Provides that funds available because of projects completed under cost may be used to further improve the project, as determined by the Commission.

Sec. 204. Changed project circumstances

Commissions may provide that grant funds can be used for a project that has a change in scope.

Title III—Special Economic Development and Adjustment Assistance

Sec. 301. Statement of purpose

States that this title funds projects necessary to respond to sudden and severe economic dislocations.

Sec. 302. Grants by regional commissions

Establishes eligibility for grants under this title. The Secretary shall establish criteria to be used. Grants may be used for a broad range of economic development assistance, including grants, loans, and loan guarantees. Includes language previously passed by the House allowing funds to be used at closed or realigned military installations.

Sec. 303. Annual reports by recipient

Requires grant recipients to report to Commissions on the use and effectiveness of grant funds.

Sec. 304. Sale of financial instruments in revolving loan funds

Allows for the sale of financial instruments in revolving loan funds, to recapitalize such funds.

Sec. 305. Treatment of revolving loan funds

Includes language adopted by the House last year to provide administrative relief to EDA funded revolving loan funds by defederalizing the funds.

Title IV—Technical Assistance, Research, and Information

Sec. 401. Technical assistance

Provides that commissions may fund planning assistance grants. This authority is the same as that currently provided by PWEDA. Grants may be made to development districts, university centers, or other eligible entities. Commissions may also provide grants for planning technical assistance.

Sec. 402. Economic development planning

Provides authority to make annual planning grants to development districts. Requires that such planning involve local public officials and private citizens.

Title V—Eligibility and Investment Strategies

Sec. 501. Eligible recipient defined

Eligibility is granted to State and local governments, Indian tribes, development districts, and non-profits working with local governments.

Sec. 502. Area eligibility

Sets eligibility criteria of: First, per capita income of 80 percent or less of the national average; second, unemployment rate 1 percent above the national average for the most recent 24-month period; third, sudden and severe job loss; or fourth, a pocket of poverty. Prior designations of eligibility, which made 85 percent of the Nation qualify for assistance are wiped out. An area must qualify each time it makes a grant application.

Sec. 503. Investment strategy

Requires applicants for assistance to have an approved investment strategy to show how the assistance will be of benefit and

how it will be coordinated with other economic development activities.

Sec. 504. Approval of projects

Consistent with the Regional Commission approach, clarifies that State certification is required for a project to be approved.

Sec. 510. Designation of economic development districts and economic development centers

Provides criteria and a process for the designation of economic development districts.

Title VI—Administration

Sec. 601. Functions of economic development commission

Provides for an Office of Economic Development to assist the Federal cochairman in carrying out the Federal cochairman's duties under the act. Authorizes the Office of Economic Development to serve as a Federal clearinghouse for economic development information. This office would also provide such assistance for communities responding to base closures, base realignments and other defense cutbacks.

Sec. 602. Consultation with other persons and agencies

Provides for consultations with other agencies and outside interests.

Sec. 603. Administration, operation, and maintenance

Provides for assurances of Federal interests in grant funds.

Sec. 604. Authority to establish independent agency in event Department of Commerce is abolished

Provides for transfer of Commissions to independent agency status upon the termination of the Department of Commerce.

Sec. 605. Treatment of Economic Development Regional Commission employees

Provides preferential hiring rights at the Regional Commissions for current EDA employees.

Title VII—Miscellaneous

Sec. 701. Powers of Federal cochairman

Provides numerous powers to the Federal cochairman necessary to carry out duties under this Act. The Federal cochairman may make discretionary grants from funds withheld from distribution to Regional Commissions; except that such grants may not total more than 10 percent of appropriated funds.

Sec. 702. Allocation of funds

The Federal cochairman shall establish a formula for the equitable allocation among the Regional Commissions of amounts appropriated to carry out this act.

Sec. 703. Performance measures

Provides for the establishment of performance measures to insure that assistance is spent in a cost-effective manner.

Sec. 704. Maintenance of standards

Continues in effect provisions of section 712 of PWEDA.

Sec. 705. Transfer of functions

Provides for the transfer of other minor authorities.

Sec. 706. Definition of State

For this act, defines State to include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Sec. 707. Annual report to Congress

Provides for one annual consolidated report to Congress on the activities of the commissions and Federal cochairman.

Sec. 708. Use of other facilities

Allows for the delegation of certain authorities to other Federal agencies. Also allows funds to be transferred between agencies.

Sec. 709. Penalties

Provides legal penalties currently used for PWEDA.

Sec. 710. Employment of expediters and administrative employees

Sets conditions on funding of certain business enterprises to protect from conflict of interest.

Sec. 711. Personal financial interests

Provides protection against conflicts of interest by members and employees of Regional Commissions.

Sec. 712. Maintenance of records of approved applications for financial assistance; public inspection

Requires the Federal cochairman to keep a public record of grants and applications.

Sec. 713. Records and audit

Requires grant recipients to follow record keeping and audit requirements.

Sec. 714. Prohibition against a statutory construction which might cause diminution in other Federal assistance

Provides that all funding authorized in this act shall be in addition to funding provided under other Federal programs.

Sec. 715. Acceptance of applicant's certifications

Allows for self-certification by applicants, at the discretion of the commissions.

Title VIII—Funding

Sec. 801. Authorization of appropriations

Authorizes $340 million a year, for fiscal years 1996, 1997, 1998, 1999, and 2000, to carry out the purposes of this act. This is a $100 million a year reduction from fiscal year 1995 levels.

Sec. 802. Defense conversion activities

In addition to authorizations under section 801, provides such sums for other defense conversion activities eligible under this act.

Sec. 10512. Conforming amendments

Section 10512 provides additional, necessary statutory changes to create the Commissions.

Sec. 10513. Savings provision

Chapter 2—Appalachian Regional Development

Sec. 10521. Findings and purposes

Outlines congressional findings of a continuing need for programs in Appalachia to provide infrastructure and other economic assistance. In particular, the purpose of the act is to address the needs of severely and persistently distressed and underdeveloped areas of the region so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the Nation.

Sec. 10522. Meetings

Requires at least one yearly meeting of the Commission with the Federal cochairman and at least a majority of State members present. Allows additional meetings via electronic means.

Sec. 10523. Authorizations for administrative expenses

Authorizes $3.645 million per fiscal year, from 1996 through 2000, for administrative expenses. Of the total, not more than $1.245 million shall be for the expenses of the Federal co-chairman. Under the commission model, States will continue to share in the administrative costs of ARC.

Sec. 10524. Administrative powers of commission

Sec. 10525. Highway system

Authorizes $90 million each fiscal year, from 1996 through 2000, for construction of the 3,025 mile Appalachian Development Highway System. In addition, a technical change is made to conform the Federal matching rate for prefinanced ARC highways.

Sec. 10526. Cost sharing of demonstration health projects

Limits ARC funding for health and child care demonstration projects to 50 percent, except that the limit could be raised up to 80 percent for projects located in distressed counties.

Sec. 10527. Repeal of Land Stabilization, Conservation, and Erosion Control Program

Repeals section 203 of the act which authorized projects for land stabilization, conservation, and erosion control.

Sec. 10528. Repeal of Timber Development Program

Repeals section 204 of the act which authorized projects for timber development.

Sec. 10529. Repeal of Mining Area Restoration Program

Repeals section 205 of the act which authorized projects for mining area restoration.

Sec. 10530. Repeal of water resource survey

Repeals section 206 of the act which authorized a water resource survey for the region.

Sec. 10531. Cost sharing of housing projects

Limits ARC funding for grants and loans for planning and obtaining financing for low- and moderate-income housing construction or rehabilitation projects to 50 percent, except that the limit could be raised up to 80 percent for projects located in distressed counties.

Sec. 10532. Repeal of Airport Safety Improvements Program

Repeals section 208 of the act which authorized airport safety projects.

Sec. 10533. Cost sharing of education programs

Limits ARC funding for vocational education and education demonstration projects to 50 percent, except that the limit could be raised up to 80 percent for projects located in distressed counties.

Sec. 10534. Sewage treatment works program

Repeals section 212 of the act which authorized projects for sewage treatment works.

Sec. 10535. Repeal of amendments to Housing Act of 1954

Repeals section 213 of the act which made the ARC an eligible agency to receive comprehensive housing planning grants under provisions of the Housing Act of 1954. Such provisions have since been repealed.

Sec. 10536. Supplements to Federal grant-in-aid programs

Limits ARC funding for supplements to other Federal grant-in-aid programs with a limit of 50 percent of project costs, except that the limit could be raised up to 80 percent for projects located in distressed counties. Additionally, clarifies that title 23 highway projects are not eligible for supplemental grant funding.

Sec. 10537. Program development criteria

Adds recognition of severe and persistent economic distress to the criteria used for consideration of programs and projects to be funded. Also adds criteria to insure that programs and projects will

be subject to outcome measurements and benchmarks designed to justify expenditures. Language also removes some dated limitations on types of assistance to be provided by the Commission.

Sec. 10538. Distressed and economically competitive counties

Within 90 days of enactment, and annually thereafter, the Commission shall designate distressed and economically competitive counties among the 399 counties in the Appalachian region. Such designations will be made by criteria to be established by the Commission. Distressed counties are those that are most severely and persistently distressed and underdeveloped. Economically competitive counties are those which have attained substantial economic parity with the rest of the Nation.

The Commission may discontinue an existing designation, except that any designation of a distressed county shall remain in effect for 3 years.

Funds may not be provided for a project in an economically competitive county, except for projects on the Appalachian Development Highway System, for local development districts, and discretionary grants authorized by section 302(a).

Sec. 10539. Grant for administrative expenses and Commission projects

Amends subsection 302(a) of the act to provide cost-sharing limitations of 50 percent, with up to 80 percent allowed in distressed counties. Exceptions to these cost share limitations on 302(a) grants are made for regional initiatives or emergency situations. Total funds made available may not exceed 10 percent of total nonhighway authorizations under section 401.

Sec. 10540. Authorization of appropriations for general program

Amends section 401 of the act to authorize $88.355 million for each fiscal year, from 1996 to 2000, for the nonhighway program.

Sec. 10541. Extension of termination date

Amends section 405 of the act to extend the termination date for the Commission to October 1, 2000.

CHANGES IN EXISTING LAW MADE BY TITLE X OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed is italics, existing law in which no change is proposed is shown in roman):

SHIPPING ACT OF 1984

AN ACT To improve the international ocean commerce transportation system of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shipping Act of 1984".

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Sec. 2. Declaration of policy.

* * * * * * *

[Sec. 15. Reports and certificates.]
Sec. 15. Reports.

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[Sec. 18. Agency reports and advisory commission.]

* * * * * * *

[Sec. 23. Surety for non-vessel-operation common carriers.]
Sec. 24. Marine terminal operator schedules.

The changes shown below will take effect on the date of the enactment of this Act

SEC. 2 DECLARATION OF POLICY.

The purposes of this Act are—

(1) to establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

(2) to provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices; [and]

(3) to encourage the development of an economically sound and efficient United States flag liner fleet capable of meeting national security needs[.] *; and*

(4) to permit carriers and shippers to develop transportation arrangements to meet their specific needs.

The changes shown below will take effect on January 1, 1997

SEC. 3. DEFINITIONS.

As used in this Act—

(1) * * *

* * * * * * *

[(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.]

[(10)] *(9)* "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade.

[(11)] *(10)* "forest products" means forest products in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container, including, but not limited to lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls, and paper in rolls.

[(12)] *(11)* "inland division" means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

[(13)] *(12)* "inland portion" means the charge to the public by a common carrier for the nonocean portion of through transportation.

[(14)] *(13)* "loyalty contract" means a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference.

[(15)] *(14)* "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier.

[(16)] *(15)* "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act, or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement.

[(17)] *(16)* "non-vessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

[(18)] *(17)* "ocean common carrier" means a vessel-operating common carrier.

[(19)] *(18)* "ocean freight forwarder" means a person in the United States that—

(A) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(B) processes the documentation or performs related activities incident to those shipments.

* * * * * * *

The changes shown below will take effect on June 1, 1997

SEC. 3. DEFINITIONS.

As used in this Act—

(1) * * *

* * * * * * *

[(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count.]

* * * * * * *

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize [a common

tariff;] *a common schedule of transportation rates, changes, classifications, rules, and practices;* but the term does not include a joint service, consortium, pooling, sailing, or transshipment arrangement.

[(10) "forest products" means forest products in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container, including, but not limited to lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls, and paper in rolls.]

* * * * * * *

[(13) "loyalty contract" means a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference.]

* * * * * * *

[(16) "non-vessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.]

* * * * * * *

[(18) "ocean freight forwarder" means a person in the United States that—

[(A) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

[(B) processes the documentation or performs related activities incident to those shipments.]

(18) "ocean freight forwarder" means a person that—

(A)(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; or

(ii) processes the documentation or performs related activities incident to those shipments; or

(B) acts as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

(19) "ocean transportation contract" means a contract in writing separate from the bill of lading or receipt between 1 or more common carriers or a conference and 1 or more shippers to provide specified services under specified rates and conditions.

* * * * * * *

[(21) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, tran-

sit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.]

* * * * * * *

(23) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided [or], the person to whom delivery is to be made[.], *a shippers' association, or an ocean freight forwarder that accepts responsibility for payment of the ocean freight.*

[(24) "shippers' association" means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.]

(24) "shippers' association" means a group of shippers that consolidates or distributes freight, on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or ocean transportation contracts.

* * * * * * *

The changes shown below will take effect on June 1, 1997

SEC. 4. AGREEMENTS WITHIN SCOPE OF ACT.

(a) OCEAN COMMON CARRIERS.—This Act applies to agreements by or among ocean common carriers to—

(1) * * *

* * * * * * *

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or [non-vessel-operating common carriers] *ocean freight forwarders*;

* * * * * * *

[(7) regulate or prohibit their use of service contracts.]

(7) discuss any matter related to ocean transportation contracts, and enter ocean transportation contracts and agreements related to those contracts.

* * * * * * *

The changes shown below will take effect on January 1, 1997

SEC. 5. AGREEMENTS.

(a) * * *

(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

(1) * * *

* * * * * * *

(4) [at the request of any member, require an independent neutral body to police fully] *state the provisions, if any, for the policing of* the obligations of the conference and its members;

* * * * * * *

(7) establish procedures for promptly and fairly considering shippers' requests and complaints; [and]

(8) provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act upon not more than 10 calendar days' notice to the conference and that the conference will include the new rate or service item in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item[.]*; and*

(9) provide that a member of the conference may enter individual and independent negotiations and may conclude individual and independent service contracts under section 8 of this Act.

The changes shown below will take effect on June 1, 1997

SEC. 5. AGREEMENTS.

(a) * * *

(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

(1) * * *

* * * * * * *

[(8) provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act upon not more than 10 calendar days' notice to the conference and that the conference will include the new rate or service item in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item; and]

(8) provide that any member of the conference may take independent action on any rate or service item agreed upon by the conference for transportation provided under section 8(a) of this Act upon not more than 3 business days' notice to the conference, and that the conference will provide the new rate or service item for use by that member, effective no later than 3 business days after receipt of that notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference provision for that rate or service item;

(9) provide that a member of the conference may enter individual and independent negotiations and may conclude individual and independent [service] *ocean transportation* contracts under section 8 of this Act[.]*; and*

(10) prohibit the conference from—

(A) prohibiting or restricting the members of the conference from engaging in individual negotiations for ocean

transportation contracts under section 8(b) with 1 or more shippers; and

(B) issuing mandatory rules or requirements affecting ocean transportation contracts that may be entered by 1 or more members of the conference, except that a conference may require that a member of the conference disclose the existence of an existing individual ocean transportation contract or negotiations on an ocean transportation contract, when the conference enters negotiations on an ocean transportation contract with the same shipper.

* * * * * * *

(e) MARITIME LABOR AGREEMENTS—This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements. This subsection does not exempt from this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common [carrier that are required to be set forth in a tariff,] *carrier,* whether or not those rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

* * * * * * *

The changes shown below will take effect on the date of the enactment of this Act

SEC. 7. EXEMPTION FROM ANTITRUST LAWS.

(a) IN GENERAL.—The antitrust laws do not apply to—

(1) * * *

* * * * * * *

[(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14b thereof, and any properly published tariff, rate, fare, or charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.]

(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation, in effect before the effective date of this Act and any tariff, rate, fare, charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

* * * * * * *

(c) LIMITATIONS.—(1) Any determination by an [agency] *agency, department,* or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

* * * * * * *

The changes shown below will take effect on June 1, 1997

SEC. 8. TARIFFS.

[(a) IN GENERAL.—

(1) Except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste, each common car-

rier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall—

[(A) state the places between which cargo will be carried;

[(B) list each classification of cargo in use;

[(C) state the level of ocean freight forwarder compensation, if any, by a carrier or conference;

[(D) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in anyway change, affect, or determine any part or the aggregate of the rates or charges; and

[(E) include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

[(2) Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for them.

[(b) TIME VOLUME RATES.—Rates shown in tariffs filed under subsection (a) may vary with the volume of cargo offered over a specified period of time.

[(c) SERVICE CONTRACTS.—An ocean common carrier or conference may enter into a service contract with a shipper or shippers' association subject to the requirements of this Act. Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, waste paper, or paper waste, each contract entered into under this subsection shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—

[(1) the origin and destination port ranges in the case of port-of-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

[(2) the commodity or commodities involved;

[(3) the minimum volume;

[(4) the line-haul rate;

[(5) the duration;

[(6) service commitments; and

[(7) the liquidated damages for nonperformance, if any.

The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

[(d) RATES.—No new or initial rate or change in an existing rate that results in an increased cost to the shipper may become effective earlier than 30 days after filing with the Commission. The Commission, for good cause, may allow such a new or initial rate or change to become effective in less than 30 days. A change in an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

[(e) REFUNDS.—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

[(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

[(2) the common carrier or conference has, prior to filing an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

[(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require that give notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

[(4) the application for refund or waiver is filed with the Commission within 180 days from the date of shipment.

[(f) FORM. —The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed. The Commission may reject a tariff that is not filed in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void and its use is unlawful.]

SEC. 8. COMMON AND CONTRACT CARRIAGE.

(a) COMMON CARRIAGE.—

(1) A common carrier and a conference shall make available a schedule of transportation rates which shall include the rates, terms, and conditions for transportation services not governed by an ocean transportation contract, and shall provide the schedule of transportation rates, in writing, upon the request of any person. A common carrier and a conference may assess a reasonable charge for complying with a request for a rate, term, and condition, except that the charge may not exceed the cost of providing the information requested.

(2) A dispute between a common carrier or conference and a person as to the applicability of the rates, terms, and conditions for ocean transportation services shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

(3) A claim concerning a rate for ocean transportation services which involves false billing, false classification, false weighing, false report of weight, or false measurement shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

(b) CONTRACT CARRIAGE.—

(1) 1 or more common carriers or a conference may enter into an ocean transportation contract with 1 or more shippers. A common carrier may enter into ocean transportation contracts without limitations concerning the number of ocean transpor-

tation contracts or the amount of cargo or space involved. The status of a common carrier as an ocean common carrier is not affected by the number or terms of ocean transportation contracts entered.

(2) A party to an ocean transportation contract entered under this section shall have no duty in connection with services provided under the contract other than the duties specified by the terms of the contract.

(3)(A) An ocean transportation contract or the transportation provided under that contract may not be challenged in any court on the grounds that the contract violates a provision of this Act.

(B) The exclusive remedy for an alleged breach of an ocean transportation contract is an action in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

(4) The requirements and prohibitions concerning contracting by conferences contained in sections 5(b)(9) and (10) of this Act shall also apply to any agreement among one or more ocean common carriers that is filed under section 5(a) of this Act.

The change shown below will take effect on January 1, 1998

(5) A contract entered under this section may be made on a confidential basis, upon agreement of the parties. An ocean common carrier that is a member of a conference agreement may not be prohibited or restricted from agreeing with 1 or more shippers that the parties to the contract will not disclose the rates, services, terms, or conditions of that contract to any other member of the agreement, to the conference, to any other carrier, shipper, conference, or to any other third party.

The changes shown below will take effect on June 1, 1997

SEC. 9. CONTROLLED CARRIERS.

(a) CONTROLLED CARRIER RATES.—No controlled carrier subject to this section may maintain rates or charges [in its tariffs or service contracts filed with the Commission] that are below a level that is just and reasonable, nor may any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations [in those tariffs or service contracts]. An unjust or unreasonable classification, rules, or regulation means one that results or is likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations that the controlled carrier has failed to demonstrate to be just and reasonable. In a proceeding under this subsection, the burden of proof is on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rates, or regulations [filed by a controlled carrier] that have been rejected, suspended, or disapproved by the Commission are void and their use in unlawful.

(b) RATE STANDARDS.—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission

may take into account appropriate factors including, but not limit to, where—

(1) the rates or charges which have been [filed] *published* or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those [filed] *published* or assessed by other carriers in the same trade;

* * * * * * *

(c) EFFECTIVE DATE OF RATES.—[Notwithstanding section 8(d) of this Act, and except for service contracts the rates, charges, classifications, rules, or regulations of controlled carriers may not, without special permission of the Commission, become effective sooner than the 30th day after the date of filing with the Commission]. Each controlled carrier shall, upon the request of the Commission, file, within 20 days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably based its determination of the lawfulness thereof.

[(d) DISAPPROVAL OF RATES.—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend the rates, charges, classifications, rules, or regulations at any time before their effective data. In the case of rates, charges, classifications rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend those rates, charges, classifications, rules, or regulations on not less than 60 days' notice to the controlled carrier. No period of suspension under this subsection may be greater than 180 days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject the new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.]

(d) Within 120 days of the receipt of information requested by the Secretary under this section, the Secretary shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable. If so, the Secretary shall issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not

be approved. Pending a determination, the Secretary may suspend the rates, charges, classifications, rules or regulations at any time. No period of suspension may be greater than 180 days. Whenever the Secretary has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may publish and, after notification to the Secretary, assess new rates, charges, classifications, rules, or regulations—except that the Secretary may reject the new rates, charges, classifications, rules, or regulations if the Secretary determines that they are unreasonable.

* * * * * * *

(f) EXCEPTIONS.—[This] *Subject to subsection (g), this* section does not apply to—

(1) a controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

* * * * * * *

(g) The rate standards, information submissions, remedies, reviews, and penalties in this section shall also apply to ocean common carriers that are not controlled, but who have been determined by the Secretary to be structurally or financially affiliated with non-transportation entities of organizations (government or private) in such a way as to affect their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way that disadvantages an ocean common carrier or carriers. The Secretary may make such determinations upon request of any person or upon the Secretary's own motion, after conducting an investigation and a public hearing.

(h) The Secretary shall issue regulations by June 1, 1997, that prescribe the procedures and requirements that would govern how price and other information is to be submitted by controlled carriers and carriers subject to determinations made under subsection (g) when such information would be needed to determine whether prices charged by these carriers are unfair, predatory, or anticompetitive.

(i) In any instance where information provided to the Secretary under this section does not result in an affirmative finding or enforcement action by the Secretary that information may not be made public and shall be exempt from disclosure under section 552 of title 5, United States Code, except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.

The changes shown below will take effect on January 1, 1997

SEC. 10. PROHIBITED ACTS.

(a) * * *

(b) COMMON CARRIERS.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

[(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges that are shown in its tariffs or service contracts;]

(1) except for service contracts, subject a person, place, port, or shipper to unreasonable discrimination;

[(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs or service contracts;

[(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs or service contracts;

[(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;]

* * * * * * *

[(8) offer or pay any deferred rebates;

* * * * * * *

The changes shown below will take effect on June 1, 1997

SEC. 10. PROHIBITED ACTS.

(a)* * *

[(b) COMMON CARRIERS.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

[(1) except for service contracts, subject a person, place, port, or shipper to unreasonable discrimination;

* * * * * * *

[(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations whose available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

[(6) except for service contracts, engage in any unfair or unjustly discriminatory practice in the matter of—

[(A) rates;

[(B) cargo classifications;

[(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

[(D) the loading and landing of freight; or

[(E) the adjustment and settlement of claims;

[(7) employ any fighting ship;

* * * * * * *

[(9) use of loyalty contract, except in conformity with the antitrust laws;

[(10) demand, charge, or collect any rate or charge that is unjustly discriminatory between shippers or ports;

[(11) except for services, make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever;

[(12) subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever;

[(13) refuse to negotiate with a shippers' association;

[(14) knowingly and willfully accept cargo from or transport cargo for the account of a non-vessel-operating common carrier that does not have a tariff and a bond, insurance, or other surety as required by sections 8 and 23 of this Act;

[(15) knowingly and will fully enter into a service contract with a non-vessel-operating common carrier or in which a non-vessel-operating common carrier is listed as an affiliate that does not have a tariff and a bond, insurance, or other surety as required by sections 8 and 23 of this Act; or

[(16) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

[(A) may be used to the detriment or prejudice of the shipper or consignee;

[(B) may improperly disclose its business transaction to a competitor; or

[(C) may be used to the detriment or prejudice of any common carrier.

Nothing in paragraph (16) shall be construed to prevent providing such information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purposes prohibited by this Act or any other Act is prohibited.]

(b) COMMON CARRIERS.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

(1) except for ocean transportation contracts, subject a person, place, port, or shipper to unreasonable discrimination;

(2) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier or has filed a complaint, or for any other reason;

(3) employ any fighting ship;

(4) subject any particular person, locality, class, or type of shipper or description of traffic to an unreasonable refusal to deal;

(5) refuse to negotiate with a shippers' association;

(6) knowingly and willfully accept cargo from or transport cargo for the account of an ocean freight forwarder that does

not have a bond, insurance, or other surety as required by section 19;

(7) knowingly and willfully enter into an ocean transportation contract with an ocean freight forwarder or in which an ocean freight forwarder is listed as an affiliate that does not have a bond, insurance, or other surety as required by section 19;

(8)(A) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

(i) may be used to the detriment or prejudice of the shipper or consignee;

(ii) may improperly disclose its business transaction to a competitor; or

(iii) may be used to the detriment or prejudice of any common carrier;

except that nothing in this paragraph shall be construed to prevent providing the information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with a conference or for the purpose of determining whether a member of the conference has breached the conference agreement or for the purpose of compiling statistics of cargo movement, but the use of that information for any other purpose prohibited by this Act or any other Act is prohibited; and

(B) after December 31, 1997, the rates, services, terms, and conditions of an ocean transportation contract may not be disclosed under this paragraph if the contract has been made on a confidential basis under section 8(b) of this Act.

The exclusive remedy for a disclosure under this paragraph shall be an action for breach of contract as provided in section 8(b)(3) of this Act.

(c) CONCERNED ACTION.—No conference or group of two or more common carriers may—

[(1) boycott, take any concerted action resulting in an unreasonable refusal to deal, or implement a policy or practice that results in an unreasonable refusal to deal;]

* * * * * * *

(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder *as defined in section 3(14)(A) of this Act* or limit that compensation to less than a reasonable amount; or

(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in [a service] *an ocean transportation* contract.

(d) COMMON CARRIERS, OCEAN FREIGHT FORWARDERS, AND MARINE TERMINAL OPERATORS.—

(1) * * *

* * * * * * *

(3) The prohibitions in [subsection] (b) (11), (12), and (16) *paragraphs (1), (4), and (8) of subsection (b)* of this section apply to marine terminal operators.

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The changes shown below will take effect on June 1, 1997

SEC. 11. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) * * *

* * * * * * *

(g) REPARATIONS.—For any complaint filed within 3 years after the cause of action accrued, the Commission shall, upon petition of the complainant and after notice and hearing, direct payment of reparations to the complainant *or counter-complainant* for actual injury (which, for purposes of this subsection, also includes the loss of interest at commercial rates compounded from the date of injury) caused by a violation of this Act plus reasonable attorney's fees. Upon a showing that the injury was caused by activity that is prohibited by section [10(b) (5) or (7)] *10(b) (2) or (3)* or section 10(c) (1) or (3) of this Act, or that violates section 10(a) (2) or (3), the Commission may direct the payment of additional amounts; but the total recovery of a complainant may not exceed twice the amount of the actual injury. [In the case of injury caused by an activity that is prohibited by section 10(b)(6) (A) or (B) of this Act, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.]

* * * * * * *

The changes shown below will take effect on June 1, 1997

SEC. 13. PENALTIES.

(a) * * *

(b) *Additional Penalties.*—

[(1) For a violation of section 10(b) (1), (2), (3), (4), or (8) of this Act, the Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

[(2) For failure to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may, after notice and an opportunity for hearing, suspend any or all tariffs of a common carrier, or that common

carrier's right to use any or all tariffs of conferences of which it is a member.

[(3) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended is subject to a civil penalty of not more than $50,000 for each shipment.]

(1) If the Secretary finds, after notice and an opportunity for a hearing, that a common carrier has filed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Secretary may request that the Secretary of the Treasury refuse to revoke any clearance required for a vessel operated by that common carrier. Upon request by the Secretary, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

[(4)] *(2)* If, in defense of its failure to comply with a subpena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced before of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

[(5)] *(3)* If, after notice and hearing, the Commission finds that the action of a common carrier, acting alone or in concert with any person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it [finds appropriate, including the imposition of any of the penalties authorized under paragraphs (1), (2), and (3) of this subsection] *finds appropriate including the imposition of the penalties authorized under paragraph (2).*

[(6)] *(4)* Before an order under this subsection becomes effective, it shall be immediately submitted to the President who may, within 10 days after receiving it, disapprove the order if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

* * * * * * *

(f) LIMITATION.—

(1) No penalty may be imposed on any person for conspiracy to violate section [10(a)(1), (b)(1), or (b)(4)] *10(a)(1)* of this Act, or to defraud the Commission by concealment of such a violation.

* * * * * * *

The changes shown below will take effect on January 1, 1997

SEC. 15. REPORTS [AND CERTIFICATES].

[(a) REPORTS.—]The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee

thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes required to be filed with the Commission under this section shall not be released to third parties or published by the Commission.

[(b) CERTIFICATION.—The Commission shall require the chief executive officer of each common carrier and, to the extent it deems feasible, may require any shipper, shippers' association, marine terminal operator, ocean freight forwarder, or broker to file a periodic written certification made under oath with the Commission attesting to—

[(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

[(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

[(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

[(4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Whoever fails to file a certificate required by the Commission under this subsection is liable to the United States for a civil penalty of not more than $5,000 for each day the violation continues.]

* * * * * * *

The changes shown below will take effect on the date of the enactment of this Act

SEC. 17. REGULATIONS.

[(a)] The Commission may prescribe rules and regulations as necessary to carry out this Act.

[(b)] The Commission may prescribe interim rules and regulations necessary to carry out this Act. For this purpose, the Commission is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All rules and regulations prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the date of enactment of this Act.

The changes shown below will take effect on the date of the enactment of this Act

[SEC. 18. AGENCY REPORTS AND ADVISORY COMMISSION.

[(a) COLLECTION OF DATA.—For a period of 5 years following the enactment of this Act, the Commission shall collect and analyze information concerning the impact of this Act upon the international ocean shipping industry, including data on:

[(1) increases or decreases in the level of tariffs;

[(2) changes in the frequency or type of common carrier services available to specific ports or geographic regions;

[(3) the number and strength of independent carriers in various trades; and

[(4) the length of time, frequency, and cost of major types of regulatory proceedings before the Commission.

[(b) CONSULTATION WITH OTHER DEPARTMENTS AND AGENCIES.—The Commission shall consult with the Department of Transportation, the Department of Justice, and the Federal Trade Commission annually concerning data collection. The Department of Transportation, the Department of Justice, and the Federal Trade Commission shall at all times have access to the data collected under this section to enable them to provide comments concerning data collection.

[(c) AGENCY REPORTS.—

[(1) Within 6 months after expiration of the 5-year period specified in subsection (a), the Commission shall report the information, with an analysis of the impact of this Act, to Congress, to the Advisory Commission on Conferences in Ocean Shipping established in subsection (d), and to the Department of Transportation, the Department of Justice, and the Federal Trade Commission.

[(2) Within 60 days after the Commission submits its report, the Department of Transportation, the Department of Justice, and the Federal Trade Commission shall furnish an analysis of the impact of this Act of Congress and to the Advisory Commission on Conferences in Ocean Shipping.

[(3) The reports required by this subsection shall specifically address the following topics:

[(A) the advisability of adopting a system of tariffs based on volume and mass of shipment;

[(B) the need for antitrust immunity for ports and marine terminals; and

[(C) the continuing need for the statutory requirement that tariffs be filed with and enforced by the Commission.

[(d) ESTABLISHMENT AND COMPOSITION OF ADVISORY COMMISSION.—

[(1) Effective 5½ years after the date of enactment of this Act, there is established the Advisory Commission on Conferences in Ocean Shipping (hereinafter referred to as the "Advisory Commission").

[(2) The Advisory Commission shall be composed of 17 members as follows:

[(A) a cabinet level official appointed by the President;

[(B) 4 members from the United States Senate appointed by the President pro tempore of the Senate, 2 from the membership of the Committee on Commerce, Science, and Transportation and 2 from the membership of the Committee on the Judiciary;

[(C) 4 members from the United States House of Representatives appointed by the Speaker of the House, 2 from the membership of the Committee on Merchant Marine and Fisheries, and 2 from the membership of the Committee on the Judiciary; and

[(D) 8 members from the private sector appointed by the President.

[(3) The President shall designate the chairman of the Advisory Commission.

[(4) The term of office for members shall be for the term of the Advisory Commission.

[(5) A vacancy in the Advisory Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

[(6) Nine members of the Advisory Commission shall constitute a quorum, but the Advisory Commission may permit as few as 2 members to hold hearings.

[(e) COMPENSATION OF MEMBERS OF THE ADVISORY COMMISSION.—

[(1) Officials of the United States Government and Members of Congress who are members of the Advisory Commission shall serve without compensation in addition to that received for their services as officials and Members, but they shall be reimbursed for reasonable travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Advisory Commission.

[(2) Members of the Advisory Commission appointed from the private sector shall each receive compensation not exceeding the maximum per diem rate of pay for grade 18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of the duties vested in the Advisory Commission, plus reimbursement for reasonable travel, subsistence, and other necessary expenses incurred by them in the performance of those duties, notwithstanding the limitations in sections 5701 through 5733 of title 5, United States Code.

[(3) Members of the Advisory Commission appointed from the private sector are not subject to section 208 of title 18, United States Code. Before commencing service, these members shall file with the Advisory Commission a statement disclosing their financial interests and business and former relationships involving or relating to ocean transportation. These statements shall be available for public inspection at the Advisory Commission's offices.

[(f) ADVISORY COMMISSION FUNCTIONS.—The Advisory Commission shall conduct a comprehensive study of, and make recommendations concerning, conferences in ocean shipping. The study shall specifically address whether the Nation would be best served by prohibiting conferences, or by closed or open conferences.

[(g) POWERS OF THE ADVISORY COMMISSION.—

[(1) The Advisory Commission may, for the purpose of carrying out it functions, hold such neraings and sit and act at such times and places, administer such oaths, and require, by subpena of otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Advisory Commission may deem advisable. Subpenas may be issued to any deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the chairman, or any duly designated member, and may be served by any person designated by the chairman, or that member. In case of contumacy by, or refusal to obey a subpena to, any person, the Advisory Commission may advise the Attorney General who shall invoke the aid of any court of the United States within the jurisdiction of which the Advisory

Commission's proceedings are carried on, or where that person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and the court may issues an order requiring that person to appear before the Advisory Commission, there to produce records, if so ordered, or to give testimony. A failure to obey such an order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the person in an inhabitant or may be found.

[(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, shall furnish to the Advisory Commission, upon request made by the chairman, such information as the Advisory Commission deems necessary to carry out its functions.

[(3) Upon request of the chairman, the Department of Justice, the Department of Transportation, the Federal Maritime Commission and the Federal Trade Commission shall detail staff personnel as necessary to assist the Advisory Commission.

[(4) The chairman may rent office space for the Advisory Commission, may utilize the services and facilities of other Federal agencies with or without reimbursement, may accept voluntary services not-withstanding section 1342 of title 31, United States Code, may accept, hold, and administer gifts from other Federal agencies, and may enter into contracts with any public or private person or entity for reports, research, or surveys in furtherance of the work of the Advisory Commission.

[(h) FINAL REPORT.—The Advisory Commission shall, within 1 year after all of its members have been duly appointed, submit to the President and to the Congress a final report containing a statement of the findings and conclusions of the Advisory Commission resulting from the study undertaken under subsection (f), including recommendations for such administrative, judicial, and legislative action as it deems advisable. Each recommendation made by the Advisory Commission to the President and to the Congress must have the majority vote of the Advisory Commission present and voting.

[(i) EXPIRATION OF THE COMMISSION.—The Advisory Commission shall cease to exist 30 days after the submission of its final report.

[(j) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $500,000 to carry out the activities of the Advisory Commission.]

The changes shown below will take effect on June 1, 1997

SEC. 19. OCEAN FREIGHT FORWARDERS.

[(A) LICENSE.—No person may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that—

[(1) the Commission determines to be qualified by experience and character to render forwarding services; and

[(2) furnished a bond in a form and amount determined by the Commission to insure financial responsibility that is issued

by a surety company found acceptable by the Secretary of the Treasury.]

(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that the Commission determines to be qualified by experience and character to render forwarding services.

(b) FINANCIAL RESPONSIBILITY.—

(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

(2) A bond, insurance, or other surety obtained pursuant to this section shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under this Act or order for reparation issued pursuant to section 11 or 14 of this Act.

(3) An ocean freight forwarder not domiciled in the United States shall designated a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

[b] *(c)* SUSPENSION OR REVOCATION.—The Commission shall, after notice and hearing, suspend or revoke a license if it finds that the ocean freight forwarder is not qualified to render forwarding services or that it willfully failed to comply with a provision of this Act or with a lawful order, rule, or regulation of the Commission. The Commission may also revoke a forwarder's license for failure to maintain [a bond in accordance with subsection (a)(2).] *bond, proof of insurance, or other surety in accordance with subsection (b)(1).*

[c] *(d)* EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without a license.

[d] *(e)* COMPENSATION OF FORWARDERS BY CARRIERS.—

(1) A common carrier may compensate an ocean freight forwarder in connection with a shipment dispatched on behalf of others only when the ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

(A) Engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space.

(B) Prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the shipment.

(2) No common carrier may pay compensation for services described in paragraph (1) more than once on the same shipment.

[(3) No compensation may be paid to an ocean freight forwarder except in accordance wit the tariff requirements of this Act.

[(4) *(3)* No ocean freight forwarder may receive compensation from a common carrier with respect to a shipment in

which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on that shipment.

(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

(A) deny to any member of the conference or group the right, upon notice of not more than 3 business days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

(B) agree to limit the payment of compensation to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a common schedule of transportation rates provided under section 8(a) of this Act, and which are assessed against the cargo on which the forwarding services or provided.

SEC. 20. REPEALS AND CONFORMING AMENDMENTS.

* * * * * * *

[(e) SAVINGS PROVISIONS.—

[(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment of this Act may remain in full force and effect and need not comply with the requirements of section 8(c) of this Act until 15 months after the date of enactment of this Act.

[(2) This Act and the amendments made by it shall not affect any suit—

[(A) filed before the date of enactment of this Act; or

[(B) with respect to claims arising out of conduct engaged in before the date of enactment of this Act, filed within 1 year after the date of enactment of this Act.]

(e) SAVINGS PROVISIONS.—

(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment of the Ocean Shipping Reform Act of 1995 may remain in full force and effect according to its term.

(2) This Act and the amendments made by this Act shall not affect any suit—

(A) filed before the date of enactment of the Ocean Shipping Reform Act of 1995;

(B) with respect to claims arising out of conduct engaged in before the date of enactment of the Ocean Shipping Reform Act of 1995, filed within 1 year after the date of enactment of the Ocean Shipping Reform Act of 1995;

(C) with respect to claims arising out of conduct engaged in after the date of enactment of the Ocean Shipping Reform Act of 1995 but before January 1, 1997, pertaining to a violation of section 10(b) (1), (2), (3), (4), or (8), as in effect before January 1, 1997, filed by June 1, 1997;

(D) with respect to claims pertaining to the failure of a common carrier or conference to file its tariffs or service

contracts in accordance with this Act in the period beginning January 1, 1997, and ending June 1,1 997, filed by December 31, 1997; or

(E) with respect to claims arising out of conduct engaged in on or after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before June 1, 1997, filed by December 31, 1997.

* * * * * * *

The changes shown below will take effect on June 1, 1997

SEC. 23. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

[(a) SURETY.—Each non-vessel operating common carrier shall furnish the Commission a bond, proof of insurance, or such other surety, as the Commission may require, in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier. Any bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.

[(b) CLAIMS AGAINST SURETY.—A bond, insurance, or other surety obtained pursuant to this section shall be available to pay any judgment for damages against a non-vessel-operating common carrier arising from its transportation-related activities under this Act or order for reparations issued pursuant to section 11 of this Act or any penalty assessed against a non-vessel-operating carrier pursuant to section 13 of this Act.

[(c) RESIDENT AGENT.—A non-vessel-operating common carrier not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

[(d) TARIFFS.—The Commission may suspend or cancel any or all tariffs of a non-vessel-operating common carrier for failure to maintain the bond, insurance, or other surety required by subsection (a) of this section or to designate an agent as required by subsection (c) of this section or for a violation of section 10(a)(1) of this Act.]

The changes shown below will take effect on June 1, 1997

SEC. 24. MARINE TERMINAL OPERATOR SCHEDULES.

A marine terminal operator shall make available to the public a schedule of rates, regulations, and practices, including limitations of liability, pertaining to receiving, delivering, handling, or storing property at its marine terminal. The schedule shall be enforceable as an implied contract, without proof of actual knowledge of its provisions, for any activity by the marine terminal operator that is taken to—

(1) efficiently transfer property between transportation modes;

(2) protect property from damage or loss;

(3) comply with any governmental requirement; or

(4) store property in excess of the terms of any other contract or agreement, if any, entered into by the marine terminal operator.

SECTION 502 OF THE HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

The change shown below will take effect on June 1, 1997

[SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

[(a) DEFINITIONS.—In this section, the following definitions apply:

[(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

[(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

[(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

[(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

[(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

[(b) TARIFF FORM AND AVAILABILITY.—

[(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

[(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

[(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

[(B) all tariff information in the System enhanced electronically by the Commission at any time.

[(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1,

1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

[(d) FEES.—

[(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

[(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

[(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

[(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

[(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

[(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

[(f) PENALTIES.—

[(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

[(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

[(g) AUTOMATIC FILING IMPLEMENTATION.—

[(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than fourteen days after a person submits software to the Commission for certification, the Commission shall—

[(A) certify the software if it provides for the electronic filing of data; and

[(B) publish in the Federal Register notice of that certification.

[(2) REPAYABLE ADVANCE.—

[(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

[(B) REQUIREMENT TO REPAY.—

[(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with

interest, to the general fund of the Treasury not later than September 30, 1995.

[(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

[(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

[(II) shall be compounded annually.

[(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

[(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

[(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

[(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.]

SECTION 10002 OF THE FOREIGN SHIPPING PRACTICES ACT OF 1988

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—Foreign Shipping Practices

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the "Foreign Shipping Practices Act of 1988".

The change shown below will take effect on June 1, 1997

SEC. 10002. FOREIGN LAWS AND PRACTICES.

(a) DEFINITIONS.—For purposes of this section—

(1) "common carrier", "marine terminal operator", ["non-vessel-operating common carrier",] "ocean common carrier", "*ocean freight forwarder*", "person", "shipper", "shippers' association", and "United States" have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702);

* * * * * * *

(4) "maritime-related services" means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, [non-vessel-operating common carrier operations,] and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

* * * * * * *

(e) ACTION AGAINST FOREIGN CARRIERS.—(1) Whenever, after notice and opportunity for comment or hearing, the Commission determines that the conditions specified in subsection (b) of this section exist, the Commission shall take such action as it considers necessary and appropriate against any foreign carrier that is a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions. Such action may include—

(A) limitations on sailings to and from United States ports or on the amount or type of cargo carried;

[(B) suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States trades of which it is a member for such period as the Commission specifies;

[(C) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

[(D) a fee, not to exceed $1,000,000 per voyage.]

(B) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Secretary, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

(C) a fee, not to exceed $1,000,000 per voyage.

* * * * * * *

(h) The actions against foreign carriers authorized in subsections (e) and (f) of this section may be used in the administration and enforcement of [section 13(b)(5) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(5))] *section 13(b)(2) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(2))* or section 19(1)(b) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876).

* * * * * * *

SECTION 36 OF THE ACT OF AUGUST 5, 1909

CHAP. 6.—An Act To provide revenue, equalize duties and encourage the industries of the United States, and for other purposes.

SEC. 36. That a tonnage duty of 9 cents per ton, not to exceed in the aggregate 45 cents per ton in any one year, [for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998,] *for fiscal years*

through fiscal year 2002, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and on all vessels (except vessels of the United States, recreational vessels, and barges, as those terms are defined in section 2101 of title 46, United States Code) that depart a United States port or place and return to the same port or place without being entered in the United States from another port or place; and a duty of 27 cents per ton, not to exceed $1.35 per ton per annum, for ⟦fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998,⟧ *for fiscal years through fiscal year 2002,* and 6 cents per ton, not to exceed 30 cents per ton per annum, for each fiscal year thereafter is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. However, neither duty shall be imposed on vessels in distress or not engaged in trade.

* * * * * * *

ACT OF MARCH 8, 1910

CHAP. 86.—An Act Concerning tonnage duties on vessels entering otherwise than by sea.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That vessels entering otherwise than by sea from a foreign port at which tonnage or light-house dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty of 9 cents per ton, not to exceed in the aggregate 45 cents per ton in any one year, ⟦for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998,⟧ *for fiscal years through fiscal year 2002,* and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter, prescribed by section thirty-six of the Act approved August fifth, nineteen hundred and nine, entitled, "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes."

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

AN ACT To provide grants for public works and development facilities, other financial assistance and the planning and coordiation needed to alleviate conditions of substantial and persistent unemployment and underemployment in economically distressed areas and regions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Public Works and Economic Development Act of 1965".

[STATEMENT OF PURPOSE

[SEC. 2. The Congress declares that the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment cause hardship to many individuals and their families, and waste invaluable human resources; that to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development; that Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, provided that such assistant is preceded by and consistent with sound, long-range economic planning; and that under the provisions of this Act new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another. Congress further declares that, in furtherance of maintaining the national economy at a high level, the assistance authorized by this Act should be made available to both rural and urban areas; that such assistance be available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and that such assistance be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

[TITLE I—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

[SEC. 101. (a) Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary of Commerce (hereinafter referred to as the Secretary) is authorized—

[(1) to make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

[(A) the project for which financial assistance is sought will directly or indirectly (i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities, (ii) otherwise assist in the creation of additional long-term employment opportunities for such area, or (iii) primarily benefit the long-term unemployed and members of low-income families or other-

wise substantially further the objectives of the Economic Opportunity Act of 1964;

[(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located;

[(C) the area for which a project is to be undertaken has an approved overall economic development program as provided in section 202(b)(10) and such project is consistent with such program; and

[(D) in the case of a redevelopment area so designated under section 401(a)(6), the project to be undertaken will provide immediate useful work to unemployed and underemployed persons in that area.

[(2) to make supplementary grants in order to enable the States and other entities within redevelopment areas to take maximum advantage of designated Federal grant-in-aid programs (as here-inafter defined), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666, as amended), and the eleven watersheds authorized by the Flood Control Act of December 22, 1944, as amended and supplemented (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

[(b) Subject to subsection (c) hereof, the amount of any direct grant under this section for any project shall not exceed 50 per centum of the cost of such project.

[(c) The amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Secretary, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 per centum of such cost, except that in the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below such per centum or may waive the non-Federal share. In the case of any State or political subdivision thereof which the Secretary determines has exhausted its effective taxing and borrowing capacity, the Secretary shall reduce the non-Federal share below such per centum or shall waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 401(a)(6) of this Act. In case of any community development corporation which the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below such per centum or waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 401(a)(6) of this Act. Supplementary grants shall be made by the Secretary, in accordance with such regulations as he shall prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs. Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal

program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in redevelopment areas under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law. The term "designated Federal grant-in-aid programs," as used in this subsection, means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Secretary may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section. In determining the amount of any supplementary grant available to any project under this section, the Secretary shall take into consideration the relative needs of the area, the nature of the projects to be assisted, and the amount of such fair user charges or other revenues as the project may reasonably be expected to generate in excess of those which would amortize the local share of initial costs and provide for its successful operation and maintenance (including depreciation).

[(d) The Secretary shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Secretary shall consider among other relevant factors first, the severity of the rates of unemployment in the eligible areas and the duration of such unemployment and second, the income levels of families and the extent of underemployment in eligible areas.

[(f) The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

[SEC. 102. For each of the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $30,000,000 of the funds authorized to be appropriated under section 105 of this Act for each such fiscal year, and for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,500,000 of the funds authorized to be appropriated under such section 105 for such period, shall be available for grants for operation of any health project funded under this title after the date of enactment of this section. Such grants may be made up to 100 per centum of the estimated cost of the first year of operation, and up to 100 per centum of the deficit in funds available for operation of the facility during the second fiscal year of operation. No grant shall be made for the second fiscal year of operation of any facility unless the agency operating such facility has adopted a plan satisfactory to the Secretary of Health, Education, and Welfare, providing for the funding of operations on a permanent basis. Any grant under this section shall be made upon the condition that the operation of the facility will be conducted under efficient management practices designed to obviate operating deficits, as determined by the Secretary of Health, Education, and Welfare.

[SEC. 103. Not more than 15 per centum of the appropriations made pursuant to this title may be expended in any one State.

[SEC. 105. There is hereby authorized to be appropriated to carry out this title not to exceed $500,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through fiscal year ending June 30, 1971, not to exceed $800,000,000 per fiscal year for the fiscal years ending June 30, 1972, and June 30, 1973, not to exceed $200,000,000 for the fiscal year ending June 30, 1974, and not to exceed $200,000,000 for the fiscal year ending June 30, 1975, and not to exceed $250,000,000 for the fiscal year ending June 30, 1976, not to exceed $62,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $425,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, and not to exceed $150,000,000 for the fiscal year ending September 30, 1982. Any amounts authorized for the fiscal year ending June 30, 1972, under this section but not appropriated may be appropriated for the fiscal year ending June 30, 1973. Not less than 25 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974, and not less than 15 per centum nor more than 35 per centum of all appropriations made for the fiscal years ending June 30, 1975 and June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, under authority of the preceding sentences shall be expended in redevelopment areas designated as such under section 401(a)(6) of this Act.

[FINANCIAL ASSISTANCE FOR SEWER FACILITIES

[SEC. 106. No financial assistance, through grants, loans, guarantees, or otherwise, shall be made under this Act to be used directly or indirectly for sewer or other waste disposal facilities unless the Secretary of Health, Education, and Welfare certifies to the Secretary that any waste material carried by such facilities will be adequately treated before it is discharged into any Public waterway so as to meet applicable Federal, State, interstate, or local water quality standards.

[CONSTRUCTION COST INCREASES

[SEC. 107. In any case where a grant (including a supplemental grant) has been made under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

[TITLE II—OTHER FINANCIAL ASSISTANCE

[PUBLIC WORKS AND DEVELOPMENT FACILITY LOANS

[SEC. 201. (a) Upon the application of any State, or political subdivision thereof, Indian tribe, or private or public nonprofit organization or association representing any redevelopment area or part thereof, the Secretary is authorized to purchase evidence of indebtedness and to make loans to assist in financing the purchase or development of land and improvements for public works, public service, or development facility usage, including public works, public service, or development facility usage, to be provided by agencies of the Federal Government pursuant to legislation requiring that non-Federal entities bear some part of the cost thereof, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within a redevelopment area, if he finds that—

[(1) the project for which financial assistance sought will directly or indirectly—

[(A) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities,

[(B) otherwise assist in the creation of additional long-term employment opportunities for such area, or

[(C) primarily benefit the long-term unemployed and members of low-income families or otherwise substantially further the objectives of the Economic Opportunity Act of 1964;

[(2) the funds requested for such project are not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary will permit the accomplishment of the project;

[(3) the amount of the loan plus the amount of other available funds for such project are adequate to insure the completion thereof;

[(4) there is a reasonable expectation of repayment; and

[(5) such area has an approved overall economic development program as provided in section 202(b)(10) and the project for which financial assistance is sought is consistent with such program.

[(b) Subject to section 710(5), no loan, including renewals or extensions thereof, shall be made under this section for a period exceeding forty years, and no evidence of indebtedness maturing more than forty years from the date of purchase shall be purchased under this section. Such loans shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eight of 1 per centum, less not exceed one-half of 1 per centum per annum.

[(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 202, except that annual appropriations for the purposes of

purchasing evidence of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed $170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, and shalll not exceed $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $200,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, and not to exceed $46,500,000 for the fiscal year ending September 30, 1982.

[(e) The Secretary shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

[LOANS AND GUARANTEES

[SEC. 202. (a)(1) The Secretary is authorized to aid in financing, within a redevelopment area, the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings by (A) purchasing evidences of indebtedness, (B) making loans (which for purposes of this section shall include participation in loans), (C) guaranteeing loans made to private borrowers by private lending institutions, for any of the purposes referred to in this paragraph upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

[(2) In addition to any other financial assistance under this title, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section, to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. No payment under this paragraph shall result in the interest rate being paid by a borrower on such a guaranteed loan being less than the rate of interest for such a loan if it were made under section 201 of this Act. Payment made to or on behalf of such borrower shall be made no less often than annually.

[(3) The Secretary is authorized to aid in financing any industrial or commercial activity within a redevelopment area by (A) making working capital loans, (B) guaranteeing working capital loans made to private borrowers by private lending institutions upon application of such institution and upon such terms and conditions as the Secretary may prescribe, except that no such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan, (C) guaranteeing rental payment of leases for buildings and equipment, except that no such guarantee shall exceed 90 per centum of the remaining rental payments required by the lease, (D) paying those debts with respect

to which a lien against property has been legally obtained (including the refinancing of any such debt) in any case where the Secretary determines that it is essential to do so in order to save employment in a designated area, to avoid a significant rise in unemployment, or to create new or increased employment.

[(b) Financial assistance under this section shall be on such terms and conditions as the Secretary determines, subject, however, to the following restrictions and limitations:

[(1) Such financial assistance shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts theretofore customarily performed by them: *Provided, however,* That such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary finds that the establishment of such branch, affiliate, or subsidiary will not result in increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

[(2) Such assistance shall be extended only to applicants, both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality is directly concerned with problems of economic development in such State or subdivision.

[(3) The project for which financial assistance is sought must be reasonably calculated to provide more than a temporary alleviation of unemployment or underemployment within the redevelopment area wherein it is or will be located.

[(4) No loan or guarantee shall be extended hereunder unless the financial assistance applied for is not otherwise available from private lenders or from other Federal agencies on terms which in the opinion of the Secretary will permit the accomplishment of the project.

[(5) The Secretary shall not make any loan without a participation unless he determines that the loan cannot be made on a participation basis.

[(6) No evidence of indebtedness shall be purchased and no loans shall be made or guaranteed unless it is determined that there is reasonable assurance of repayment.

[(7) Subject to section 701(5) of this Act, no loan or guarantee, including renewals or extension thereof, may be made hereunder for a period exceeding twenty-five years and no evidences of indebtedness maturing more than twenty-five years from date of purchase may be purchased hereinder: *Provided,* That the foregoing restrictions on maturities shall not apply to securities or obligations received by the Secretary as a claim-

ant in bankruptcy or equitable reorganization or as a creditor in other proceedings attendant upon insolvency of the obligor.

[(8) Loans made and evidences if indebtedness purchased under this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose.

[(9) Loan assistance (other than for a working capital loan) shall not exceed 65 per centum of the aggregate cost to the applicant (excluding all other Federal aid in connection with the undertaking) of acquiring or developing land and facilities (including machinery and equipment), and of constructing, altering, converting, rehabilitating, or enlarging the building or buildings of the particular project, and shall, among others, be on the condition that—

[(A) other funds are available in an amount which which together with the assistance provided hereunder, shall be sufficient to pay such aggregate cost;

[(B) not less than 15 per centum of such aggregate cost be supplied as equity capital or as a loan repayable in no shorter period of time and at no faster an amortization rate than the Federal financial assistance extended under this section is being repaid, and if such a loan is secured, its security shall be subordinate and inferior to the lien or liens securing such Federal financial assistance: *Provided, however,* That, except in projects involving financial participation by Indian tribes, not less than 5 per centum of such aggregate cost shall be supplied by the State or any agency, instrumentality, or political subdivision thereof, or by a community or area organization which is nongovernmental in character, unless the Secretary shall determine in accordance with the objective standards promulgated by regulation that all or part of such funds are not reasonably available to the project because of the economic distress of the area or for other good cause, in which case he may waive the requirement of this provision to the extent of such unavailability, and allow the funds required by this subsection to be supplied by the applicant or by such other non-Federal source as may reasonably be available to the project;

[(C) to the extent the Secretary finds such action necessary to encourage financial participation in a particular project by other lenders and investors, and except as otherwise provided in subparagraph (B), any Federal financial assistance extended under this section may be repayable only after other loans made in connection with such project have been repaid in full, and the security, if any, for such Federal financial assistance may be subordinate and inferior to the lien or liens securing other loans made in connection with the same project.

[(10) No such assistance shall be extended unless there shall be submitted to and approval of the Secretary an overall program for the economic development of the area and a finding by the State, or any agency, instrumentality, or local political subdivision thereof, that the project for which financial assistance is sought is consistent with such program: *Provided,* That nothing in this Act shall authorize financial assistance for any project prohibited by laws of the State or local political subdivision in which the project would be located, nor prevent the Secretary from requiring such periodic revisions of previously approved overall economic development programs as he may deem appropriate.

[ECONOMIC DEVELOPMENT FUNDS

[SEC. 203. Funds obtained by the Secretary under section 201; loan funds obtained under section 403, and collections and repayments received under this Act, shall be deposited in an economic development revolving fund (hereunder referred to as the "fund"), which is hereby established in the Treasury of the United States, and which shall be available to the Secretary for the purpose of extending financial assistance under sections 201, 202, and 403, and for the payment of all obligations and expenditures arising in connection therewith. There shall also be credited to the fund such funds as have been paid into the area development fund or may be received from obligations outstanding under the Area Redevelopment Act. The fund shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the amount of loans outstanding under this Act computed in such manner and at such rate as may be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, during the month of September preceding the fiscal year in which the loans were made.

[REDEVELOPMENT AREA LOAN PROGRAM

[SEC. 204. (a) If a redevelopment area prepares a plan for the redevelopment of the area or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make an interest free loan to such area for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commerical use, rehabilitation and renovation of usable empty factory buildings for industrial and commerical use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such interest free loan shall be made on condition first, that the area will use such interest free loan to makes loans to carry out such plan and second, the repayment of any loan made by the area from such interest free loan shall be placed by such area in a revolving fund available solely for the making of other loans by

the area, upon approval by the Secretary, for the economic redevelopment of the area. Any such interest free loan shall be repaid to the United States by a redevelopment area whenever such area has its designation as a redevelopment area terminated or modified under section 402 of this Act. This section shall not apply to any redevelopment area whose designation as a redevelopment area would be terminated or modified under section 402 of this Act except for the provisions of section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for title I through IV through fiscal year 1971", approved July 6, 1970 (P.L. 91–304).

[(b)(1) Each eligible recipient which receives assistance under this section shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this section in meeting the need it was designed to alleviate and the purposes of this section.

[(2) The Secretary shall include in the annual report pursuant to section 707 of this Act a consolidated report with his recommendations, if any, on the assistance authorized under this section, in a form which he deems appropriate.

[(c) There is authorized to be appropriated to carry out this section not to exceed $125,000,000 per fiscal year for the fiscal years ending September 30, 1977, and September 30, 1979, September 30, 1980, and September 30, 1981.

[TITLE III—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

[SEC. 301. (a) In carrying out his duties under this Act the Secretary is authorized to provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment first, to areas which he has designated as redevelopment areas under this Act, and second, to other areas which he finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and development potentialities for, economic growth of such areas. Such assistance may be provided by the Secretary through members of his staff, through the payment of funds authorized for this section to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations. The Secretary, in his discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

[(b) The Secretary is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of organizations which he determines to be qualified to receive grants-in-aid under subsection (a) hereof, except that in the case of a grant under this subsection to an Indian tribe the Secretary is authorized to defray up to 100 per centum of such expenses. In determining

the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, such as urban planning grants, authorized under the Housing Act of 1954, as amended, and highway planning and research grants authorized under the Federal-aid Highway Act of 1962, to assure adequate and effective planning and economical use of funds.

[(c) To assist in the long-range accomplishment of the purposes of this Act, the Secretary, in cooperation with other agencies having similar functions, shall establish and conduct a continuing program of study, training, and research to (A) assist in determining the causes of unemployment, underemployment, underdevelopment, and chronic depression in the various areas and regions of the Nation, (B) assist in the formulation and implementation of national, State, and local programs which will raise income levels and otherwise produce solutions to the problems resulting from these conditions, and (C) assist in providing the personnel needs to conduct such programs. The program of study, training, and research may be conducted by the Secretary through members of his staff, through payment of funds authorized for this section to other departments or agencies of the Federal Government, or through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants to such individuals, organizations, or institutions, or through conferences, and similar meetings organized for such purposes. The Secretary shall make available to interested individuals and organizations the results of such research. The Secretary shall include in his annual report under section 707 a detailed statement concerning the study and research conducted under this section together with his findings resulting therefrom and his recommendations for legislative and other action.

[(d) The Secretary shall aid redevelopment areas and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Secretary may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in redevelopment areas and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

[(e) The Secretary shall establish an independent study board consisting of governmental and on governmental experts to investigate the effects of Government procurement, scientific, technical, and other related policies, upon regional economic development. Any Federal officer or employee may, with the consent of the head of the department or agency in which he is employed, serve as a

member of such board, but shall receive no additional compensation for such service. Other members of such board may be compensated in accordance with the provisions of section 701(10). The board shall report its findings, together with recommendations for the better coordination of such policies, to the Secretary, who shall transmit the report to the Congress not later than two years after the enactment of this Act.

[(f) The Secretary is authorized to make grants, enter into contracts or otherwise provide funds for any demonstration project within a redevelopment area or areas which he determines is designed to foster regional productivity and growth, prevent out migration, and otherwise carry out the purposes of this Act.

[SEC. 302. (a) The Secretary is authorized, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including a redevelopment area or an economic development district), to make direct grants to such State, city, or other political subdivision, or organization to pay up to 80 per centum of the cost for economic development planning. The planning for cities, other political subdivisions, and sub-State planning and development organizations (including redevelopment areas and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes. Such planning shall be a continuous process involving public officials and private citizens in analyzing local economics, defining development goals, determining project opportunities, and formulating and implementing a development program. Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and the economic development districts located in whole or in part within such State. Upon completion of any such plan, the State shall certify to the Secretary first, that in the preparation of such State plan, the local and economic development district plans were considered and, to the fullest extent possible, such State plan is consistent with such local and economic development district plans, and second, that such State plan is consistent, with such local and economic development district plans, or, if such State plan is not consistent with such local and economic development district plans, all of the inconsistencies of the State plan with the local and economic development district plans, and the justification for each of these inconsistencies. Any overall State economic development planning shall be a part of a comprehensive planning process that shall consider the provision of public works to stimulate and channel development, economic opportunities and choices for individuals; to support sound land use, to enhance and protect the environment including the conservation and preservation of open spaces and environmental quality, to provide public services, and to balance physical and human resources through the management and control of physical development. The assistance available under this section may be provided in addition to assistance available under section 301(b) of this Act but shall not supplant such assistance and shall be available to develop an annual inventory of specific recommendations for assistance under section 304 of this Act. Each State receiving assistance under this subsection shall submit to the

Secretary an annual report on the planning process assisted under this subsection.

[(b) In addition, the Secretary is authorized to assist economic development districts in—

[(1) providing technical assistance (other than by grant) to local governments within the district; and

[(2) carrying out any review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968, if such district has been designated as the agency to conduct such review.

[(c) The planning assistance authorized under this title shall be used in accordance with the review procedure required pursuant to title IV of the Intergovernmental Cooperation Act of 1968 and shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

[SEC. 303. (a) There is hereby authorized to be appropriated $25,000,000 annually for the purposes of Sections 301 and 302 of this Act, for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1969, $50,000,000 per fiscal year for the fiscal years ending June 30, 1970, June 30, 1971, June 30, 1972, and June 30, 1973, and $35,000,000 for the fiscal year ending June 30, 1974 and $75,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, and not to exceed $35,500,000 for the fiscal year ending September 30, 1982.

[(b) Not to exceed $15,000,000 in each of the fiscal years ending June 30, 1975, and June 30, 1976. September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, of the sums authorized to be appropriated under subsection (a) of this section, shall be available to make grants to States.

[SUPPLEMENTAL AND BASIC GRANTS

[SEC. 304. (a) There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976, $18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $75,000,000 per fiscal year for the fiscal year ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, for apportionment by the Secretary among the States for the purpose of supplementing or making grants and loans authorized under titles I, II, III (other than planning grants authorized under sections 301(b) and 302), IV, and IX of this Act. Such funds shall be apportioned among the States in the ratio which all grants made under title I of this Act since August 26, 1965, in each State bear to the total of all such grants made in all the States since August 26, 1965.

[(b) Funds apportioned to a State pursuant to subsection (a) shall be available for supplementing or making such grants or

loans if the State makes a contribution of at least 25 per centum of the amount of such grant or loan in each case. Funds apportioned to a State under subsection (a) shall remain available to such State until obligated or expended by it.

[(c) Funds apportioned to a State pursuant to this section may be used by the Governor in supplementing grants or loans with respect to any project or assistance authorized under title I, II, III (other than planning grants authorized under sections 301(b) and 302), IV, or IX of this Act, and approved by the Secretary after July 1, 1974. Such grants may be used to reduce or waive the non-Federal share otherwise required by this Act, subject to the requirements of subsection (b) of this section.

[(d) In the case of any grant or loan for which all or any portion of the basic Federal contribution to the project under this Act is proposed to be made with funds available under this section, no such Federal contribution shall be made until the Secretary of Commerce certifies that such project meets all of the requirements of this Act and could be approved for Federal contributions under this Act if funds were available under this Act (other than section 509) for such project. Funds may be provided for projects in a State under this section only if the Secretary determines that the level of Federal and State financial assistance under this Act (other than section 509) and under Acts other than this Act, for the same type of projects in the State, will not be diminished in order to substitute funds authorized by this section.

[(e) After June 30, 1975, funds apportioned to a State pursuant to this section shall be used by the Governor in a manner which is consistent with the State planning process assisted under section 302 of this Act, if such planning process has been established in such State.

[TITLE IV—AREA AND DISTRICT ELIGIBILITY

[PART A—REDEVELOPMENT AREAS

[AREA ELIGIBILITY

[SEC. 401. (a) The Secretary shall designate as "redevelopment areas"—

[(1) those areas in which he determines, upon the basis of standards generally comparable with those set forth in paragraphs (A) and (B), that there has existed substantial and persistent unemployment for an extended period of time and those areas in whcih he determines there has been a substantial loss of population due to lack of employment opportunity. There shall be included among the areas so designated any area—

[(A) where the Secretary of Labor finds that the current rate of unemployment, as determined by appropriate annual statistics for the most recent twelve consecutive months, is 6 per centum or more and has averaged at least 6 per centum for the qualifying time periods specified in paragraph (B); and

[(B) where the Secretary of Labor finds that the annual average rate of unemployment has been at least—

[(i) 50 per centum above the national average for three of the preceding four calendar years, or

[(ii) 75 per centum above the national average for two of the preceding three calendar years, or

[(iii) 100 per centum above the national average for one of the preceding two calendar years.

[The Secretary of Labor shall find the facts and provide the data to be used by the Secretary in making the determinations required by this subsection;

[(2) those additional areas which have a median family income not in excess of 50 per centum of the national median, as determined by the most recent available statistics for such areas;

[(3) those additional Federal or State Indian reservations or trust or restricted Indian-owned land areas which the Secretary, after consultation with the Secretary of the Interior or an appropriate State agency, determines manifest the greatest degree of economic distress on the basis of unemployment and income statistics and other appropriate evidence of economic underdevelopment; *Provided, however,* That uninhabited Federal or State Indian reservations or trust or restricted Indian-owned land areas may be designated where such designation would permit assistance to Indian tribes, with a direct beneficial effect on the economic well-being of Indians;

[(4) upon request of such areas, those additional areas in which the Secretary detemines that the loss, removal, curtailment, or closing of a major source of employment has caused within three years prior to, or threatens to cause within three years after, the date of the request an unusual and abrupt rise in unemployment of such magnitude that the unemployment rate for the area at the time of the request exceeds the national average, or can reasonably be expected to exceed the national average, by 50 per centum or more unless assistance is provided. Notwithstanding any provision of subsection 401(b) to the contrary, an area designated under the authority of this paragraph may be given a reasonable time after designation in which to submit the overall economic development program required by subsection 202(b)(10) of this Act;

[(5) notwithstanding any provision of this section to the contrary, those additional areas which were designated redevelopment areas under the Area Redevelopment Act on or after March 1, 1965; *Provided, however,* That the continued eligibility of such areas after the first annual review of eligibility conducted in accordance with section 402 of this Act shall be dependent on their qualification for designation under the standards of economic need set forth in subsections (a)(1) through (a)(4) of this section;

[(6) those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

[(A) a large concentration of low-income persons;

[(B) rural areas having substantial outmigration;

[(C) substantial unemployment; or

[(D) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

No redevelopment area established under this paragraph shall be subject to the requirements of subparagrphs (A) and (C) of paragraph (1) of subsection (a) of section 101 of this Act. No redevelopment area established under this paragraph shall be eligible to meet the requirements of section 403(a)(1)(B) of this Act;

[(7) those areas where per capita employment has declined significantly during the next preceding ten-year period for which appropriate statistics are available;

[(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, to have experienced unemployment which is both substantial and above the national average for the preceding twenty-four months;

[(9) those areas which the Secretary determines have demonstrated long-term economic deterioration.

[(b) The size and boundaries of redevelopment areas shall be as determined by the Secretary: *Provided, however,* That—

[(1) no area shall be designated until it has an approved overall economic development program in accordance with subsection 202(b)(10) of this Act;

[(2) any area which does not submit an acceptable overall economic development program in accordance with subsection 202(b)(10) of this Act within the reasonable time after notification of eligibility for designation, shall not thereafter be designated prior to the next annual review of eligibility in accordance with section 402 of this Act;

[(3) no area shall be designated which does not have a population of at least one thousand five hundred persons, except that this limitation shall not apply to any area designated under section 401 (a)(3) or (a)(6); and.

[(4) except for areas designated under subsections (a)(3), (a)(4) and (a)(6) hereof, no area shall be designated which is smaller than a "labor area" (as defined by the Secretary of Labor), a country, or municipality with a population of over twenty-five thousand, whichever in the opinion of the Secretary is appropriate. Nothing in this subsection shall prevent any municipality, designated as a redevelopment area or eligible to be designated as a redevelopment area, from combining with any other community having mutual economic interests and transportation and marketing patterns for the purposes of such designation.

[(c) Upon the request of the Secretary, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and such other heads of agencies as may be appropriate are authorized to conduct such special studies, obtain such information, and compile and furnish to the Secretary such data as the Secretary may deem necessary or proper to enable him to make the determinations provided for in this section. The Secretary shall reimburse when appropriate, out of any funds appropriated to carry out the purposes

of this Act, the foregoing officers for any expenditures incurred by them under this section.

[(d) If a State has no area designated under the preceding subsections of this section as a redevelopment area, the Secretary shall designate as a redevelopment area that area in such State which in his opinion most nearly qualifies under such preceding subsections. An area so designated shall have its eligibility terminated in accordance with the provisions of section 402 if any other area within the same State subsequently has become qualified or been designated under any other subsection of this section other than subsection (a)(6) as of the time of the annual review prescribed by section 402: *Provided*, That the Secretary shall not terminate any designation of an area in a State as a redevelopment area if to do so would result in such State having no redevelopment area.

[(e) As used in this Act, the term "redevelopment area" refers to any area within the United States which has been designated by the Secretary as a redevelopment area.

[ANNUAL REVIEW OF AREA ELIGIBILITY

[SEC. 402. The Secretary shall conduct an annual review of all areas designated in accordance with section 401 of this Act, and on the basis of such reviews shall terminate or modify such designation whenever such an area no longer satisfies the designation requirements of section 401, but in no event shall such designation of an area be terminated prior to the expiration of the third year after the date such area was so designated. No area previously designated shall retain its designated status unless it maintains a currently approved overall economic development program in accordance with subsection 202(b)(10). No termination of eligibility shall first, be made without thirty days' prior notification to the area concerned, second, affect the validity of any application filed, or contract or undertaking entered into, with respect to such area pursuant to this Act prior to such termination, third, prevent any such area from again being designated a redevelopment area under section 401 of this Act if the Secretary determines it to be eligible under such section, or fourth, be made in the case of any designated area where the Secretary determines that an improvement in the unemployment rate of a designated area is primarily the result of increased employment in occupations not likely to be permanent. The Secretary shall keep the departments and agencies of the Federal Government, and interested State or local agencies, advised at all times of any changes made hereunder with respect to the classification of any area.

[PART B—ECONOMIC DEVELOPMENT DISTRICTS

[SEC. 403. (a) In order that economic development projects of broader geographic significance may be planned and carried out, the Secretary is authorized—

[(1) to designate appropriate "economic development districts" within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

[(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single redevelopment area;

[(B) the proposed district contains at least one redevelopment area;

[(C) the proposed district contains one or more redevelopment areas or economic development centers identified in an approved district overall economic development program as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the redevelopment areas within the district; and

[(D) the proposed district has a district overall economic development program which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary;

[(2) to designate as "economic development centers," in accordance with such regulations as he shall prescribe, such areas as he may deem appropriate, if—

[(A) the proposed center has been identified and included in an approved district overall economic development program and recommended by the State or States affected for such special designation:

[(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the redevelopment areas of the district; and

[(C) the proposed center does not have a population in excess of two hundred and fifty thousand according to the last preceding Federal census.

[(3) to provide financial assistance in accordance with the criteria of sections 101, 201, and 202 of this Act, except as may be herein otherwise provided, for projects in economic development centers designed under subsection (a)(2) above, if—

[(A) the project will further the objectives of the overall economic development program of the district in which it is to be located:

[(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

[(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

[(4) subject to the 20 per centum non-Federal share required for any project by subsection 101(c) of this Act, to increase the amount of grant assistance authorized by section 101 for projects within redevelopment areas (designated under section 401), by an amount not to exceed 10 per centum of the aggregate cost of any such project, in accordance with such regulations as he shall prescribe if—

[(A) the redevelopment area is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

[(B) the project is consistent with an approved district overall economic development program.

[(b) In designating economic development districts and approving district overall economic development programs under subsection (a) of this section, the Secretary is authorized, under regulations prescribed by him—

[(1) to invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

[(2) to cooperate with the several States—

[(A) in sponsoring and assisting district economic planning and development groups, and

[(B) in assisting such district groups to formulate district overall economic development programs;

[(3) to encourage participation by appropriate local governmental authorities in such economic development districts.

[(c) The Secretary shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

[(d) As used in this Act, the term "economic development district" refers to any area within the United States composed of cooperating redevelopment areas and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Secretary as an economic development district.

[(e) As used in this Act, the term "economic development center" refers to any area within the United States which has been identified as an economic development center in an approved district overall economic development program and which has been designated by the Secretary as eligible for financial assistance under sections 101, 201, and 202 of this Act in accordance with the provisions of this section.

[(f) For the purpose of this Act the term "local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

[(g) There is hereby authorized to be appropriated not to exceed $50,000,000 for the fiscal year ending June 30, 1967, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and not to exceed $45,000,000 per fiscal year for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, not to exceed $11,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $45,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, for financial assistance extended under the provisions of subsection (a)(3) and (a)(4) hereof.

[(h) In order to allow time for adequate and careful district planning, subsection (g) of this section shall not be effective until one year from the date of enactment.

[(i) Each economic development district designated by the Secretary under this section shall as soon as practicable after the date of enactment of this section or after its designation provide that a copy of the district overall economic development program be furnished to the appropriate regional commission established under title V of this Act, if any part of such proposed district is within such a region or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965, if any part of such proposed district is within the Appalachian region.

[(j) The Secretary is authorized to provide the financial assistance which is available to a redevelopment area under this Act to those parts of an economic development district which are not within a redevelopment area, when such assistance will be of a substantial direct benefit to a redevelopment area within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for a redevelopment area, except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in paragraph (4) of subsection (a) of this section.

[PART C—INDIAN ECONOMIC DEVELOPMENT

[SEC. 404. In order to assure a minimum Federal commitment to alleviate economic distress of Indians, in addition to their eligibility for assistance with funds authorized under other parts of this Act, there are authorized to be appropriated not to exceed $25,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976, not to exceed $6,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed $25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, for the purpose of providing assistance under this Act to Indian tribes. Such sums shall be in addition to all other funds made available to Indian tribes under this Act.

[PART D—UNEMPLOYMENT RATE DETERMINATIONS

[SEC. 405. Whenever any provision of this Act requires the Secretary of Labor, or the Secetary, to make any determination or other finding relating to the unemployment rate of any area, information regarding such unemployment rate may be furnished either by the Federal Government or by a State. Unemployment rates furnished by a State shall be accepted by the Secretary unless he determines that such rates are inaccurate. The Secretary shall provide technical assistance to State and local governments in the calculation of unemployment rates to insure their validity and standardization.

[TITLE VI—ADMINISTRATION

[SEC. 601. (a) The Secretary shall administer this Act and, with the assistance of an Assistant Secretary of Commerce, in addition to those already provided for, shall supervise and direct the Admin-

istrator created herein, and coordinate the Federal cochairmen appointed heretofore or subsequent to this Act. The Assistant Secretary created by this section shall be appointed by the President by and with the advice and consent of the Senate. Such Assistant Secretary shall perform such functions as the Secretary may prescribe. There shall be appointed by the President, by and with the advice and consent of the Senate, an Administrator for Economic Development who shall be compensated at the rate provided for level V of the Federal Executive Salary Schedule who shall perform such duties as are assigned by the Secretary.

[(b) Paragraph (12) of subsection (d) of section 303 of the Federal Executive Salary Act of 1964 is amended by striking out "(4)" and inserting in lieu thereof "(5)".

[(c) Subsection (e) of section 303 of the Federal Executive Salary Act of 1964 is amended by adding at the end thereof the following new paragraph:

["(100) Administrator for Economic Development."

[ADVISORY COMMITTEE ON REGIONAL ECONOMIC DEVELOPMENT

[SEC. 602. The Secretary shall appoint a National Public Advisory Committee on Regional Economic Development which shall consist of twenty-five members and shall be composed of representatives of labor, management, agriculture, State and local governments, and the public in general. From the members appointed to such Committee the Secretary shall designate a Chairman. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of his duties under this Act. Such Committee shall hold not less than two meetings during each calendar year.

[CONSULTATION WITH OTHER PERSONS AND AGENCIES

[SEC. 603. (a) The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

[(b) The Secretary may make provisions for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this Act.

ADMINISTRATION, OPERATION, AND MAINTENANCE

[SEC. 604. No Federal assistance shall be approved under this Act unless the Secretary is satisifed that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

[TITLE VII—MISCELLANEOUS

[POWERS OF SECRETARY

[SEC. 701. In performing his duties under this Act, the Secretary is authorized to—

[(1) adopt, alter, and use a seal, which shall be judicially noticed;

[(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable.

[(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

[(4) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with loans made or evidences of indebtedness purchased under this Act, and collect or compromise all obligations assigned to or held by him in connection with such loans or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection;

[(5) further extend the maturity of or renew any loan made or evidence of indebtedness purchased under this Act, beyond the periods stated in such loan or evidence of indebtedness or in this Act, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan or evidence of indebtedness;

[(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to, or otherwise acquired by him in connection with loans made or evidences of indebtedness purchased under this Act;

[(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to him in connection with loans made or evidences of indebtedness purchased under this Act. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Secretary. Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not apply to any contract of harzard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of loans made or evidences of indebtedness purchased under this Act if the premium therefor or the amount thereof does not exceed $1,000. The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this Act may be exercised by the Secretary or by any officer or

agent appointed by him for that purpose without the execution of any express delegation of power or power of attorney;

[(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in sections 201, 202, 301, 403, and 503 of this Act;

[(9) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans made or evidences of indebtedness purchased under this Act;

[(10) employ experts and consultants or organizations therefor as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5 of such Act (5 U.S.C. 73b–2) for persons in the Government service employed intermittently, while so employed: *Provided, however,* That contracts for such employment may be renewed annually;

[(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this Act from the application of sections 507(b) and 2679 of title 28, United States Code, and of section 367 of the Revised Statutes (5 U.S.C. 316); and

[(12) establish such rules, regulations and procedures as he may deem appropriate in carrying out the provisions of this Act.

[PREVENTION OF UNFAIR COMPETITION

[SEC. 702. No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.

[SAVINGS PROVISIONS

[SEC. 703. (a) No suit, action, or other proceedings lawfully commenced by or against the Administrator or any other officer of the Area Redevelopment Administration in his official capacity or in relation to the discharge of his official duties under the Area Redevelopment Act, shall abate by reason of the taking effect of the provisions of this Act, but the court may, on motion or supplemental pe-

tition filed at any time within twelve months after such taking effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the Secretary or the Administrator or such other officer of the Department of Commerce as may be appropriate.

[(b) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties under the Area Redevelopment Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

[TRANSFER OF FUNCTIONS, EFFECTIVE DATE, AND LIMITATIONS ON ASSISTANCE

[SEC. 704. (a) The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of the Area Redevelopment Act are hereby vested in the Secretary.

[(b) The President may designate a person to act as Administrator under this Act until the office is filled as provided in this Act or until the expiration of the first period of sixty days following the effective date of this Act, which shall first occur. While so acting such person shall receive compensation at the rate provided by this Act for such office.

[(c) The provisions of this Act shall take effect upon enactment unless herein explicity otherwise provided.

[(d) Notwithstanding any requirements of this Act relating to the eligibility of areas, projects for which applications are pending before the Area Redevelopment Administration on the effective date of this Act shall for a period of one year thereafter be eligible for consideration by the Secretary for such assistance under the provisions of this Act as he may determine to be appropriate.

[(e) No financial assistance authorized under this Act shall be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy, or to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed), except first, for projects specifically authorized by Congress, and second, for local projects for industrial parks and industrial or commercial areas in communities where the electrical energy or gas supply is, or is threatened to be interrupted or curtailed resulting in a loss of jobs, or where the purpose is to save jobs, or create new jobs, on condition that (A) the Secretary finds that project financing is not available from private lenders or other Federal agencies on terms which, in the opinion of the Secretary,

will permit accomplishment of the project, and (B) the State or Federal regulatory body regulating such service determines that the facility to be financed will not compete with an existing public utility rendering such a service to the public at rates or charges subject to regulation by such State or Federal regulatory body, or if there is a determination of competition, the State or Federal regulatory body must make a determination that in the area to be served by the facility for which the financial assistance is to be extended there is a need for an increase in such service (taking into consideration reasonably forseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake. Not more than $7,000,000 approximated to carry out titles I and II of this Act may be expended annually for such projects.

[SEPARABILITY

[SEC. 705. Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this Act or the application thereof to any persons or circumstances shall be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provision of this Act or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

[APPLICATION OF ACT

[SEC. 706. As used in this Act, the terms "State", "States", and "United States" include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

[ANNUAL REPORT

[SEC. 707. The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this Act for each fiscal year beginning with the fiscal year ending June 30, 1966. Such report shall be printed and shall be transmitted to the Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

[USE OF OTHER FACILITIES

[SEC. 708. (a) The Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of the Secretary's functions, powers, and duties this Act as he may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

[(b) Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

[(c) Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government,

if such funds are used for the purposes for which they are specifically authorized and appropriated.

[APPROPRIATION

[SEC. 709. There are hereby authorized to be appropriated such sums as may be necessary to carry out those provisions of the Act for which specific authority for appropriations is not otherwise provided in this Act, except that there are hereby authorized to be appropriated to carry out those provisions of the Act for which specific authority for appropriations is not otherwise provided in this Act not to exceed $25,000,000 for the fiscal year ending September 30, 1982. Appropriations authorized under this Act shall remain available until expended unless otherwise provided by appropriations Acts.

[PENALTIES

[SEC. 710. (a) Whoever makes any statement knowing it to be false, or whoever will fully overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under section 101, 201, or 403 or any extension thereof by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

[(b) Whoever, being connected in any capacity with the Secretary, in the administration of this Act first, embezzles, abstracts, purloins, or willfully misappleis any moneys, funds, securities, or other things of value, whether belonging to him or pledged or otherwise entrusted to him, or second, with intent to defraud the Secretary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any false entry in any book, report or statement of or to the Secretary, or without being duly authorized draws any orders of issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or third, with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary, or fourth, gives any unauthorized information concerning any future action of plan of the Secretary which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary, shall be punished by imprisonment for not more than five years, or both.

[EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES

[SEC. 711. No financial assistance shall be extended by the Secretary under section 101, 201, 202, or 403 to any business enterprise unless the owners, partners, or officers of such business enterprise first, certify to the Secretary the names of any attorneys,

agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Secretary for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and second, execute an agreement binding such business enterprise, for a peirod of two years after such assistance is rendered by the Secretary to such business enterprise, to refrain from employing tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the granting of assistance under this Act.

[PREVAILING RATE OF WAGE AND FORTH-HOUR WEEK

[SEC. 712. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on smiliar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary shall not extend any financial assistance under sections 101, 201, 202, 403, 903, and 1003, for such project without first obtaining adequate assurance that these labor standards will be maintained upon the cosntruction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions sent forth in Reoganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

[RECORD OF APPLICATIONS

[SEC. 713. The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for financial assistance under section 101, 201, 202, or 403, which shall be kept avaialble for public inspection during the regualr business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved; first, the name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof, second, the amount and duration of the loan or grant for which application is made, third, the purposes for which the proceeds of the loan or grant are to be used, and fourth, a general description of the security offered in the case of a loan.

[RECORDS AND AUDIT

[SEC. 714. (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

[(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

[CONFORMING AMENDMENT

[SEC. 715. All benefits heretofore specially made available (and not subsequently revoked) under other Federal programs to persons or to public or private organizations, corporations, or entities in areas designated by the Secretry as "redevelopment areas" under section 5 of the Area Redevelopment Act, are hereby also extended, insofar as practicable, to such areas as may be designated as "redevelopment areas" or "economic development centers" under the authority of section 401 or 403 of this Act: *Provided, however,* That this section shall not be construed as limiting such administrative discretion as may have been conferred under any other law.

[SEC. 716. All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

[TITLE VIII—ECONOMIC RECOVERY FOR DISASTER AREAS

[PURPOSE OF TITLE

[SEC. 801. (a) It is the purpose of this title to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require first, assistance in planning for development to replace that lost in the major disaster; second, continued coordination of assistance available under Federal-aid programs; and third, continued assistance toward the restoration of the employment base.

[(b) As used in this title, the term "major disaster" means a major disaster declared by the President in accordance with the Disaster Relief and Emergency Assistance Act.

[DISASTER RECOVERY PLANNING

[SEC. 802. (a)(1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this title. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

[(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at least one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal

coordinating officer shall also serve on the Recovery Planning Council.

[(3) The Federal representative on such Recovery Planning Council may be the Chairman of the Federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to title V of this Act, or the Appalachian Regional Development Act of 1965, or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

[(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition of State and Federal represenatatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under title VI of this Act or title III of the Appalachian Regional Development Act of 1965, such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or IV organizations is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334) and by the Intergovernmental Cooperation Act of 1968 (Public Law 90–577; 82 Stat. 1098).

[(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

[(b) The Recovery Planning Council first, shall review existing plans for the affected area; and second, may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plans determinations made under section 406(c) of the Disaster Relief and Emergency Assistance Act.

[(c)(1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprogramming, or additional approval of Federal-aid projects and programs within the area—

[(A) for which application has been made but approval not yet granted;

[(B) for which funds have been obligated or approval granted but construction not yet begun;

[(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

[(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

[(E) which may reasonably be anticipated as becoming available under existing programs.

[(2) Upon the recommendation of the Recovery Planning Council and the request for the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act.

[PUBLIC WORKS AND DEVELOPMENT FACILITIES GRANTS AND LOANS

[SEC. 803. (a) The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

[(1) to make loans for the acquisition or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

[(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to subsection (c)(2) of section 802 of this Act, or other Federal-aid projects in the affected area.

[(b) Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

[(c) No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

[(d) Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum per annum.

[(e) Financial assistance under this title shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts therefore customarily performed by them. Such limitations shall not be construed to prohibit assistance for

the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

[LOAN GUARANTEES

[SEC. 804. The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrowers by private lending institutions first, to aid in financing any project within any area affected by a major disaster for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion or enlargement of existing buildngs; and second, for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

[TECHNICAL ASSISTANCE

[SEC. 805. (a) In carrying out the purposes of this title the President is authorized to provide technical assistance which would be useful in facilitating economic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this title to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations or suitable institutions, under contracts entered into for such purposes, or through grants-in-aid to appropriate public or private non-profit State, area, district, or local organization.

[(b) The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 802 of this Act. In determining the amount of the non-Federal share of such costs or expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds.

[TITLE IX—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

[PURPOSE

[SEC. 901. It is the purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements which remove economic activities from a locality, and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

[DEFINITION

[SEC. 902. As used in this title, the term "eligible recipient" means a redevelopment area or economic development district established under title IV of this Act, an Indian tribe, a State, a city or other political subdivision of a State, or consortium of such political subdivisions.

[GRANTS BY SECRETARY

[SEC. 903. (a) (1) The Secretary is authorized to make grants directly to any eligible recipient in an area (A) which the Secretary has determined has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government), or (B) which the Secretary determines has demonstrated long-term economic deterioration, to carry out or develop a plan which meets the requirements of subsection (b) of this section and which is approved by the Secretary, to use such grants for any of the following: public facilities, public services, business development, planning, unemployment compensation (in accordance with subsection (d) of this section), rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals and businesses, and other assistance which demonstrably furthers the economic adjustment objectives of this title.

[(2) (A) Such grants may be used in direct expenditures by the eligible recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

[(B) Grants for unemployment compensation shall be made to the State. Grants for any other purpose shall be made to any appropriate eligible recipient capable of carrying out such purpose.

[(b) No plan shall be approved by the Secretary under this section unless such plan shall—

[(1) identify each economic development and adjustment need of the area for which assistance is sought under this title;

[(2) describe each activity planned to meet each such need;

[(3) explain the details of the method of carrying out each such planned activity;

[(4) contain assurances satisfactory to the Secretary that the proceeds from the repayment of loans made by the eligible recipient with funds granted under this title will be used for economic adjustment; and

[(5) be in such form and contain such additional information as the Secretary shall prescribe.

[(c) The Secretary to the extent practicable shall coordinate his activities in requiring plans and making grants and loans under this title with regional commissions, States, economic development districts and other appropriate planning and development organizations.

[(d) In each case in which the Secretary determines a need for assistance under subsection (a) of this section due to an increase in unemployment and makes a grant under this section, the Secretary may transfer funds available for such grant to the Secretary of Labor and the Secretary of Labor is authorized to provide to any individual unemployed as a result of the dislocation for which such grant is made, such assistance as he deems appropriate while the individual is unemployed. Such assistance as the Secretary of labor may provide shall be available to an individual not otherwise disqualified under State law for unemployment compensaton benefits, as long as the individual's unemployment caused by the dislocation continues or until the individual is reemployed in a suitable position, but no longer than one year after the unemployment commences. Such assistance for a week of employment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the dislocation occurred, and the amount of assistance under this subsection shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of employment. The Secretary of Labor is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

[REPORTS AND EVALUATION

[SEC. 904. (a) Each eligible recipient which receives assistance under this title shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

[(b) The Secretary shall include in the annual report pursuant to section 707 of this Act a consolidated report with his recommendations, if any, on the assistance authorized under this title, in a form which he deems appropriate.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 905. There is authorized to be appropriated to carry out this title not to exceed $75,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976, not to exceed $25,000,000 for the transition quarter ending September 30, 1976, and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, and not to exceed $33,000,000 for the fiscal year ending September 30, 1982.

[TITLE X—JOB OPPORTUNITIES PROGRAM

[STATEMENT OF PURPOSE

[SEC. 1001. It is the purpose of this title to provide emergency financial assistance to stimulate, maintain or expand job creating activities in areas, both urban and rural, which are suffering from unusually high levels of unemployment.

[DEFINITIONS

[SEC. 1002. For the purpose of this title the term 'eligible area' means any area, which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 7 per centum for the most recent calendar quarter or any area designated pursuant to section 204(c) of the Comprehensive Employment and Training Act of 1973 which has unemployment equal to or in excess of 7 per centum with special consideration given to areas with unemployment rates above the national average.

[PROGRAM AUTHORIZED

[SEC. 1003. (a) To carry out the purposes of this title, the Secretary of Commerce, in accordance with the provisions of this title, is authorized from funds appropriated and made available under section 1007 of this title to provide financial assistance to programs and projects identified through the review process described in section 1004 to expand or accelerate the job creating impact of such programs or projects for unemployed persons in eligible areas. Programs and projects for which funds are made available under this title shall not be approved until the officials of the appropriate units of general government in the affected areas have an adequate opportunity to comment on the specific proposal.

[(b) Whenever funds are made available by the Secretary of Commerce under this title for any progam or project, the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such assistance shall, except as otherwise provided in this subsection, administer the law authorizing such assistance in accordance with all applicable provisions of that law, except provisions relating to—

[(1) requiring allocation of funds among the States,

[(2) limits upon the total amount of such grants for any period, and

[(3) the Federal contribution to any State or local government, whenever the President or head of such department,

agency, or instrumentality of the Federal Government determines that any non-Federal contribution cannot reasonably be obtained by the State or local government concerned.

[(c) Where necessary to effectively carry out the purposes of this title, the Secretary of Commerce is authorized to assist eligible areas in making applications for grants under this title.

[(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary indentifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall first, give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, and second, consider the appropriations of the proposed activity to the number and needs of unemployed persons in the eligible area.

[(e)(1) The Secretary, if the national unemployment rate is equal to or exceeds 7 per centum for the most recent calendar quarter, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent calendar quarter. Seventy per centum of the funds appropriated pursuant to this title shall be available only for grants in areas as defined in the first sentence of this subsection.

[(2) Not more than 15 per centum of all amounts appropriated to carry out this title shall be available under this title for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.

[PROGRAM REVIEW

[SEC. 1004. (a) Within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, after the date of enactment of the Public Works and Economic Development Act Amendments of 1976, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of this Act, shall first, complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; second, evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b) for which funds could be obligated in such year with Federal financial assistance under this title; and third, submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. With-

in forty-five days of the receipt of such recommendations the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with section 1003(d) of this title.

[(b) States and political subdivisions in any eligible area may, pursuant to subsection (a), submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this title.

[(c) The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including, but not limited to, new or revised programs and projects submitted in accordance with this section.

[SEC. 1005. The Secretary of Commerce shall prescribe such rules, regulations, and procedures to carry out the provisions of this title as will assure that adequate consideration is given to the relative needs of applicants for assistance in rural eligible areas and the relative needs of applicants for assistance in urban eligible areas and to any equitable distribution of funds authorized under this title between rural and urban eligible applicants unless this would require project grants to be made in areas which do not meet the criteria of this title.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 1006. (a) There are hereby authorized to be appropriated to carry out the provisions of this title $81,250,000 for each calendar quarter of a fiscal year during which the national average unemployment is equal to or exceeds 7 per centum on the average. No further appropriations of funds is authorized under this section if a determination is made that the national average rate of unemployment has receded below an average of 7 per centum for the most recent calendar quarter as determined by the Secretary of Labor.

[(b) Funds authorized by subsecton (a) are available for grants by the Secretary when the national average unemployment is equal to or in excess of an average of 7 per centum for the most recent calendar quarter. If the national average unemployment rate recedes below an average of 7 per centum for the most recent calendar quarter, the authority of the Secretary to make grants or obligate funds under this title is terminated. Grants may not be made until the national average unemployment has equalled or exceeded an average of 7 per centum for the most recent calendar quarter.

[(c) Funds authorized to carry out this title shall be in addition to, and not in lieu of, any amounts authorized by other provisions of law.

[TERMINATION DATE

[SEC. 1007. Notwithstanding any other provision of this title, no further obligations of funds appropriated under this title shall be made by the Secretary of Commerce after September 30, 1981.

[CONSTRUCTION COSTS

[SEC. 1008. No program or project originally approved for funds under an existing program shall be determined to be ineligible for Federal financial assistance under this title solely because of increased construction costs.]

SEC. 2. FINDINGS AND DECLARATION.

(a) FINDINGS.—Congress finds that—

(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

(1) the assistance authorized by this Act should be made available to both rural and urban areas;

(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

(3) such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

TITLE I—ECONOMIC DEVELOPMENT COMMISSION

SEC. 101. ESTABLISHMENT OF ECONOMIC DEVELOPMENT COMMISSION.

(a) ESTABLISHMENT.—There is established an Economic Development Commission which shall be an independent establishment in the executive branch.

(b) APPOINTMENT OF FEDERAL COCHAIRMAN.—The Commission shall headed by a Federal Cochairman of the Economic Develop-

ment Commission (hereinafter in this Act referred to as the "Federal Cochairman") who shall be appointed by the President by and with the advice and consent of the Senate.

(c) DUTIES.—It shall be the duty of the Federal Cochairman to carry out duties vested in the Federal Cochairman under this Act.

SEC. 102. ESTABLISHMENT OF REGIONAL COMMISSIONS.

(a) ESTABLISHMENT.—The Federal Cochairman shall establish for each region established by section 106 an Economic Development Regional Commission (hereinafter in this Act referred to as a "Regional Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—Each Regional Commission shall be composed of 1 Federal member and 1 State member from each participating State in the region represented by the Regional Commission.

(2) FEDERAL COCHAIRMAN.—The Federal member of each Regional Commission shall be the Federal Cochairman.

(3) STATE MEMBERS.—Each State member of a Regional Commission shall be the chief executive officer of the State. The State members of a Regional Commission shall elect a Cochairman from among such State members for a term of not less than 1 year.

(4) ALTERNATES.—

(A) STATE ALTERNATES.—Each State member of a Regional Commission may have a single alternate appointed by the chief executive officer of the State from among members of the chief executive officer's cabinet or the chief executive officer's personal staff.

(B) FEDERAL ALTERNATE.—The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman.

(C) DUTIES.—An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal representative for which he or she is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present.

(c) DECISIONMAKING.—

(1) VOTING.—Decisions by a Regional Commission shall require an affirmative vote of the Federal Cochairman (or the Federal Cochairman's alternate) and of the majority of the State members.

(2) QUORUM.—No decision of a Regional Commission involving Commission policy, developing investment strategies, or allocating funds among States may be made without the Federal Cochairman (or the Federal Cochairman's alternate) and a quorum of the State members present. For purposes of this Act, the Federal Cochairman (or the Federal Cochairman's alternate) and a majority of the State members shall constitute a quorum.

(d) PAY.—

(1) FEDERAL COCHAIRMAN.—The Federal Cochairman shall be compensated by the Federal Government at the rate prescribed

for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) FEDERAL COCHAIRMAN'S ALTERNATE.—The Federal Cochairman's alternate shall be compensated by the Federal Government at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, and when not serving as an alternate for the Federal Cochairman shall perform such functions and duties as are delegated by the Federal Cochairman.

(3) STATE MEMBERS AND THEIR ALTERNATES.—Each State member and the State member's alternate shall be compensated by the State which they represent at the rate established by law of such State.

SEC. 103. COOPERATION OF FEDERAL AGENCIES.

Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall cooperate with each Regional Commission in order to assist the Regional Commission in carrying out the functions of the Regional Commission.

SEC. 104. ADMINISTRATIVE EXPENSES.

(a) PAYMENT BY STATES.—Fifty percent of the administrative expenses of a Regional Commission (other than the expenses of the Federal Cochairman) shall be paid by the States in the region represented by the Regional Commission and the remaining 50 percent of such expenses shall be paid by the Federal Government. The expenses of the Federal Cochairman, the Federal Cochairman's alternate, and the Federal Cochairman's staff shall be paid solely by the Federal Government.

(b) DETERMINATION OF STATE SHARE.—The share of the administrative expenses to be paid by each State shall be determined by the Regional Commission. The Federal Cochairman shall not participate or vote in such determination.

(c) DELINQUENT PAYMENTS.—No assistance authorized by this Act shall be furnished to any State or to any political subdivision or resident of a State, nor shall the State member of a Regional Commission participate or vote in any determination by the Regional Commission, while such State is delinquent in the payment of such State's share of the administrative expenses of the Regional Commission.

SEC. 105. ADMINISTRATIVE POWERS.

To carry out its duties under this Act, consistent with regulations issued by the Federal Cochairman, a Regional Commission may take any of the following actions:

(1) Adopt, amend, and repeal bylaws and rules governing the conduct of the Regional Commission's business and the performance of its functions.

(2) Appoint and fix the pay of an executive director and such other personnel as may be necessary to enable the Regional Commission to carry out its functions; except that the compensation for any individual so appointed shall not exceed the rate of basic pay for level V of the Executive Schedule and no member, officer, or employee of the Regional Commission, other than the Federal Cochairman, the Federal Cochairman's alter-

nate, employees of the Federal Cochairman, and any Federal employees detailed under paragraph (3), shall be deemed a Federal employee for any purpose.

(3) Request the head of a Federal department or agency to detail to temporary duty with the Regional Commission such personnel within the administrative jurisdiction of such head as the Regional Commission may need for carrying out its functions, and each such detail shall be without loss of seniority, pay, or other employee status.

(4) Arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency.

(5) Make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefits system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel. The Director of the Office of Personnel Management is authorized to contract with a Regional Commission for continued coverage of any Regional Commission employee who, on a date in the 6-month period ending on the date of Regional Commission employment, was a Federal employee, in the retirement program and other employee benefit programs of the Federal Government.

(6) Accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible.

(7) Subject to the requirements of the Federal Property and Administrative Services Act of 1949, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out the Regional Commission's functions and on such terms as the Regional Commission may deem appropriate, with any department, agency, or instrumentality of the United States, or with any person, firm, association, or corporation.

(8) Take such other actions and incur such other expenses as may be necessary and appropriate.

SEC. 106. ESTABLISHMENT OF REGIONS.

(a) IN GENERAL.—For the purposes of this Act, there are established 8 regions of the United States as follows:

(1) REGION I.—Region I shall be composed of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(2) REGION II.—Region II shall be composed of the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(3) REGION III.—Region III shall be composed of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(4) REGION IV.—Region IV shall be composed of the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

(5) REGION V.—Region V shall be composed of the State of California.

(6) REGION VI.—Region VI shall be composed of the States of Alaska, Arizona, Hawaii, Idaho, Nevada, Oregon, and Wash-

ington and American Samoa, Guam, the Marshall Islands, Micronesia, and the Northern Mariana Islands.

(7) REGION VII.—Region VII shall be composed of the States of Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia and the District of Columbia.

(8) REGION VIII.—Region VIII shall be composed of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont and Puerto Rico and the Virgin Islands.

(b) PARTICIPATION NOT REQUIRED.—No State shall be required to participate in any program under this Act.

TITLE II—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

SEC. 201. DIRECT AND SUPPLEMENTARY GRANTS.

(a) IN GENERAL.—Upon the application of any eligible recipient, a Regional Commission may—

(1) make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within an area described in section 502(a), if the Regional Commission finds that—

(A) the project for which financial assistance is sought will directly or indirectly—

(i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

(ii) otherwise assist in the creation of additional long-term employment opportunities for such area; or

(iii) primarily benefit the long-term unemployed and members of low-income families;

(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located;

(C) the area for which a project is to be undertaken has an approved investment strategy as provided by section 503 and such project is consistent with such strategy; and

(D) in the case of an area described in section 502(a)(4), the project to be undertaken will provide immediate useful work to unemployed and underemployed persons in that area; and

(2) make supplementary grants in order to enable the States and other entities within areas described in section 502(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (c)(4)), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887), for

which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

(b) COST SHARING.—Subject to subsection (c), the amount of any direct grant under this subsection for any project shall not exceed 50 percent of the cost of such project.

(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

(1) AMOUNT OF SUPPLEMENTARY GRANTS.—

(A) IN GENERAL.—Except as provided by subparagraph (B), the amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Federal Cochairman, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost.

(B) EXCEPTIONS.—Notwithstanding subparagraph (A)—

(i) in the case of a grant to an Indian tribe, a Regional Commission may reduce the non-Federal share below the percentage specified in subparagraph (A) or may waive the non-Federal share;

(ii) in the case of any State or a political subdivision of the State which the Regional Commission determines has exhausted its effective taxing and borrowing capacity, the Regional Commission shall reduce the non-Federal share below the percentage specified in subparagraph (A) or shall waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4); and

(iii) in case of any community development corporation which the Regional Commission determines has exhausted its effective borrowing capacity, the Regional Commission may reduce the non-Federal share below the percentage specified in subparagraph (A) or waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4).

(2) FORM OF SUPPLEMENTARY GRANTS.—Supplementary grants shall be made by a Regional Commission, in accordance with such regulations as the Federal Cochairman may prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in areas described in section 502(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

(4) DESIGNATED FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—In this subsection, the term "designated Federal grant-in-aid programs" means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of

facilities as the Federal Cochairman may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

(5) CONSIDERATION OF RELATIVE NEED IN DETERMINING AMOUNT.—In determining the amount of any supplementary grant available to any project under this section, a Regional Commission shall take into consideration the relative needs of the area and the nature of the projects to be assisted.

(d) REGULATIONS.—The Federal Cochairman shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Federal Cochairman shall consider among other relevant factors—

(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment; and

(2) the income levels of families and the extent of underemployment in eligible areas.

(e) REVIEW AND COMMENT UPON PROJECTS BY LOCAL GOVERNMENTAL AUTHORITIES.—The Federal Cochairman shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

SEC. 202. CONSTRUCTION COST INCREASES.

In any case where a grant (including a supplemental grant) has been made by a Regional Commission under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Regional Commission, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

SEC. 203. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

In any case where a grant (including a supplemental grant) has been made by a Regional Commission under this title for a project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has decreased because of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Regional Commission.

SEC. 204. CHANGED PROJECT CIRCUMSTANCES.

In any case where a grant (including a supplemental grant) has been made by a Regional Commission under this title for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project based upon the designs and specifications which were the basis of the grant has changed, the Regional Commission may approve the use of grant funds on such changed project if the Regional Commission determines that such changed project meets the requirements of this title and that

such changes are necessary to enhance economic development in the area.

TITLE III—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

SEC. 301. STATEMENT OF PURPOSE.

The purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation, including unemployment arising from actions of the Federal Government and from compliance with environmental requirements which remove economic activities from a locality, and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

SEC. 302. GRANTS BY REGIONAL COMMISSIONS.

(a) IN GENERAL.—A Regional Commission is authorized to make grants directly to any eligible recipient in an area which the Regional Commission determines, in accordance with criteria to be established by the Federal Cochairman by regulation—

(1) has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government); or

(2) has demonstrated long-term economic deterioration.

(b) PURPOSES.—Amounts from grants under subsection (a) shall be used by an eligible recipient to carry out or develop an investment strategy which—

(1) meets the requirements of section 503; and

(2) is approved by the Regional Commission.

(c) TYPES OF ASSISTANCE.—In carrying out an investment strategy using amounts from grants under subsection (a), an eligible recipient may provide assistance for any of the following:

(1) Public facilities.

(2) Public services.

(3) Business development.

(4) Planning.

(5) Research and technical assistance.

(6) Administrative expenses.

(7) Training.

(8) Relocation of individuals and businesses.

(9) Other assistance which demonstrably furthers the economic adjustment objectives of this title.

(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—Amounts from grants under subsection (a) may be used in direct expenditures by the eligible recipient or through redistribution by the

eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

(e) COORDINATION.—A Regional Commission to the extent practicable shall coordinate the activities relating to the requirements for investment strategies and making grants and loans under this title with other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

(f) BASE CLOSINGS AND REALIGNMENTS.—

(1) LOCATION OF PROJECTS.—In any case in which a Regional Commission determines a need for assistance under subsection (a) due to the closure or realignment of a military installation, the Regional Commission may make such assistance available for projects to be carried out on the military installation and for projects to be carried out in communities adversely affected by the closure or realignment.

(2) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, a Regional Commission may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

SEC. 303. ANNUAL REPORTS BY RECIPIENT.

Each eligible recipient which receives assistance under this title from a Regional Commission shall annually during the period such assistance continue to make a full and complete report to the Regional Commission, in such manner as the Regional Commission shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

SEC. 304. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

Any loan, loan guarantee, equity, or other financial instrument in the portfolio of a revolving loan fund, including any financial instrument made available using amounts from a grant made before the effective date of the Economic Development Partnership Act of 1995, may be sold, encumbered, or pledged at the discretion of the grantee of the Fund, to a third party provided that the net proceeds of the transaction—

(1) shall be deposited into the Fund and may only be used for activities which are consistent with the purposes of this title; and

(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

SEC. 305. TREATMENT OF REVOLVING LOAN FUNDS.

(a) IN GENERAL.—Amounts from grants made under this title which are used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as

amounts derived from Federal funds for the purposes of any Federal law after such amounts are loaned from the fund to a borrower and repaid to the fund.

(b) EXCEPTIONS.—Amounts described in subsection (a) which are loaned from a revolving loan fund to a borrower and repaid to the fund—

(1) may only be used for activities which are consistent with the purposes of this title; and

(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

(c) REGULATIONS.—Not later than 30 days after the effective date of the Economic Development Partnership Act of 1995, the Federal Cochairman shall issue regulations to carry out subsection (a).

(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants under this title, the Federal Cochairman shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.

(e) APPLICABILITY TO PAST GRANTS.—The requirements of this section applicable to amounts from grants made under this title shall also apply to amounts from grants made, before the effective date of the Economic Development Partnership Act of 1995, under title I of this Act, as in effect on the day before such effective date.

TITLE IV—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

SEC. 401. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—In carrying out its duties under this Act, a Regional Commission may provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment to areas which the Regional Commission finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of such areas.

(b) PROCEDURES AND TERMS.—

(1) MANNER OF PROVIDING ASSISTANCE.—Assistance may be provided by a Regional Commission through—

(A) members of the Regional Commission's staff;

(B) the payment of funds authorized for this section to departments or agencies of the Federal Government;

(C) the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or

(D) grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

(2) REPAYMENT TERMS.—A Regional Commission, in its discretion, may require the repayment of assistance provided under

this subsection and prescribe the terms and conditions of such repayment.

(c) GRANTS COVERING ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—A Regional Commission may make grants to defray not to exceed 75 percent of the administrative expenses of organizations which the Regional Commission determines to be qualified to receive grants-in-aid under subsections (a) and (b); except that in the case of a grant under this subsection to an Indian tribe, the Regional Commission is authorized to defray up to 100 percent of such expenses.

(2) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of such costs or expenses, a Regional Commission shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

(3) USE OF GRANTS WITH PLANNING GRANTS.—Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants to assure adequate and effective planning and economical use of funds.

(d) AVAILABILITY OF TECHNICAL INFORMATION; FEDERAL PROCUREMENT.—A Regional Commission shall aid areas described in section 502(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Regional Commission may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas described in section 502(a) and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

SEC. 402. ECONOMIC DEVELOPMENT PLANNING.

(a) DIRECT GRANTS.—

(1) IN GENERAL.—A Regional Commission may, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including an area described in section 502(a) or an economic development district), make direct grants to such State, city, or other political subdivision, or organization to pay up to 80 percent of the cost for economic development planning.

(2) PLANNING PROJECTS SPECIFICALLY INCLUDED.—The planning for cities, other political subdivisions, and sub-State planning and development organizations (including areas described in section 502(a) and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes.

(3) PLANNING PROCESS.—The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining

project opportunities, and formulating and implementing a development program.

(4) COORDINATION OF ASSISTANCE UNDER SECTION 401(c).—The assistance available under this section may be provided in addition to assistance available under section 401(c) but shall not supplant such assistance.

(b) COMPLIANCE WITH REVIEW PROCEDURE.—The planning assistance authorized under this title shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

TITLE V—ELIGIBILITY AND INVESTMENT STRATEGIES

PART A—ELIGIBILITY

SEC. 501. ELIGIBLE RECIPIENT DEFINED.

In this Act, the term "eligible recipient" means an area described in section 502(a), an economic development district designated under section 510, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions.

SEC. 502. AREA ELIGIBILITY.

(a) CERTIFICATION.—In order to be eligible for assistance under title II, an applicant seeking assistance to undertake a project in an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

(1) The area has a per capita income of 80 percent or less of the national average.

(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

(4) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Federal Cochairman determines has one or more of the following conditions:

(A) A large concentration of low-income persons.

(B) Rural areas having substantial out-migration.

(C) Substantial unemployment.

(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by a Regional Commission unless it is determined to be inaccurate. The most recent statistics available shall be used.

(c) SPECIAL RULE.—An area which a Regional Commission determines has 1 or more of the conditions described in subsection (a)(4)—

(1) shall not be subject to the requirements of subparagraphs (A) and (C) of section 201(a)(1); and

(2) shall not be eligible to meet the requirements of section 510(a)(1)(B).

(d) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date of the Economic Development Partnership Act of 1995 shall not be effective after such effective date.

SEC. 503. INVESTMENT STRATEGY.

A Regional Commission may provide assistance under titles II and III to an applicant for a project only if the applicant submits to the Regional Commission, as part of an application for such assistance, and the Regional Commission approves an investment strategy which—

(1) identifies the economic development problems to be addressed using such assistance;

(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments;

(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (1) and describes how the strategy will solve such problems;

(4) provides a description of the project necessary to implement the strategy, estimates of costs, and timetables; and

(5) provides a summary of public and private resources expected to be available for the project.

SEC. 504. APPROVAL OF PROJECTS.

Only applications for grants or other assistance under this Act for specific projects shall be approved which are certified by the State member of the Regional Commission representing such applicant and determined by the Federal Cochairman—

(1) to be included in a State investment strategy approved by the Regional Commission;

(2) to have adequate assurance that the project will be properly administered, operated, and maintained; and

(3) to otherwise meet the requirements for assistance under this Act.

PART B—ECONOMIC DEVELOPMENT DISTRICTS

SEC. 510. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, a Regional Commission may—

(1) designate appropriate "economic development districts" within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 502(a);

(B) the proposed district contains at least 1 area described in section 502(a);

(C) the proposed district contains 1 or more areas described in section 502(a) or economic development centers identified in an approved district investment strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 502(a) within the district; and

(D) the proposed district has a district investment strategy which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Regional Commission;

(2) designate as "economic development centers", in accordance with such regulations as the Federal Cochairman shall prescribe, such areas as the Regional Commission may deem appropriate, if—

(A) the proposed center has been identified and included in an approved district investment strategy and recommended by the State or States affected for such special designation;

(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 502(a) of the district; and

(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census.

(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

(A) the project will further the objectives of the investment strategy of the district in which it is to be located:

(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

(4) subject to the 20 percent non-Federal share required for any project by section 201(c), increase the amount of grant assistance authorized by section 201 for projects within areas described in section 502(a), by an amount not to exceed 10 percent of the aggregate cost of any such project, in accordance with such regulations as the Federal Cochairman shall prescribe if—

(A) the area described in section 502(a) is situated within a designated economic development district and is actively

participating in the economic development activities of the district; and

(B) the project is consistent with an approved investment strategy.

(b) AUTHORITIES.—In designating economic development districts and approving district investment strategies under subsection (a), a Regional Commission may, under regulations prescribed by the Federal Cochairman—

(1) invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

(2) cooperate with the several States—

(A) in sponsoring and assisting district economic planning and development groups; and

(B) in assisting such district groups to formulate district investment strategies; and

(3) encourage participation by appropriate local governmental authorities in such economic development districts.

(c) TERMINATION OR MODIFICATION OF DESIGNATIONS.—The Federal Cochairman shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

(d) DEFINITIONS.—In this Act, the following definitions apply:

(1) ECONOMIC DEVELOPMENT DISTRICT.—The term "economic development district" refers to any area within the United States composed of cooperating areas described in section 502(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by a Regional Commission as an economic development district. Such term includes any economic development district designated under section 403 of this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1995.

(2) ECONOMIC DEVELOPMENT CENTER.—The term "economic development center" refers to any area within the United States which has been identified as an economic development center in an approved investment strategy and which has been designated by a Regional Commission as eligible for financial assistance under this Act in accordance with the provisions of this section.

(3) LOCAL GOVERNMENT.—The term "local government" means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

(e) PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT WITHIN AREAS DESCRIBED IN SEC. 502(a).—A Regional Commission is authorized to provide the financial assistance which is available to an area described in section 502(a) under this Act to those parts of an economic development district which are not within an area described in section 502(a), when such assistance will be of a substantial direct benefit to an area described in section 502(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 502(a); except that nothing in this sub-

section shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in subsection (a)(4).

TITLE VI—ADMINISTRATION

SEC. 601. FUNCTIONS OF ECONOMIC DEVELOPMENT COMMISSION.

In administering the Economic Development Commission, the Federal Cochairman shall ensure that the Commission—

(1) serves as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States; and

(2) helps potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

SEC. 602. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Federal Cochairman is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Federal Cochairman may make provisions for such consultation with interested departments and agencies as the Federal Cochairman may deem appropriate in the performance of the functions vested in the Federal Cochairman by this Act.

SEC. 603. ADMINISTRATION, OPERATION, AND MAINTENANCE.

No Federal assistance shall be approved under this Act unless the Federal Cochairman is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

SEC. 604. TREATMENT OF ECONOMIC DEVELOPMENT ADMINISTRATION EMPLOYEES.

In considering applications for employment at the Economic Development Commission or in a Regional Commission, preference shall be given to individuals who are employees of the Economic Development Administration on the effective date of the Economic Development Partnership Act of 1995.

TITLE VII—MISCELLANEOUS

SEC. 701. POWERS OF FEDERAL COCHAIRMAN.

(a) IN GENERAL.—In performing the Federal Cochairman's duties under this Act, the Federal Cochairman is authorized to—

(1) adopt, alter, and use a seal, which shall be judicially noticed;

(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Federal Cochairman may deem advisable;

(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Federal Cochairman;

(5) under regulations prescribed by the Federal Cochairman, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Federal Cochairman's discretion and upon such terms and conditions and for such consideration as the Federal Cochairman determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Federal Cochairman in connection with assistance extended under this Act, and collect or compromise all obligations assigned to or held by the Federal Cochairman in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Federal Cochairman determines to be reasonable, any real or personal property conveyed to, or otherwise acquired by the Federal Cochairman in connection with assistance extended under this Act;

(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to the Federal Cochairman in connection with assistance extended this Act;

(8) acquire, in any lawful manner and in accordance with the requirements of the Federal Property and Administrative Services Act of 1949, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate to the conduct of the activities authorized under this Act;

(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Federal Cochairman, take any action, including the procurement of the services of attorneys by contract, determined by the Federal Cochairman to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses

(including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Federal Cochairman or the Federal Cochairman's property;

(12) make discretionary grants, pursuant to authorities otherwise available to a Regional Commission under this Act and without regard to the requirements of section 504, to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region from the funds withheld from distribution to the Regional Commissions; except that the aggregate amount of such discretionary grants in any fiscal year may not exceed 10 percent of the amounts appropriated under title VIII for such fiscal year; and

(13) establish such rules, regulations, and procedures as the Federal Cochairman considers appropriate in carrying out the provisions of this Act.

(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Federal Cochairman.

(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Federal Cochairman as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

(d) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Federal Cochairman, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Federal Cochairman pursuant to the provisions of this Act may be exercised by the Federal Cochairman, or by any officer or agent appointed by the Federal Cochairman for such purpose, without the execution of any express delegation of power or power of attorney.

SEC. 702. ALLOCATION OF FUNDS.

The Federal Cochairman shall establish a formula for the equitable allocation among the Regional Commissions of amounts appropriated to carry out this Act.

SEC. 703. PERFORMANCE MEASURES.

The Federal Cochairman shall establish performance measures for grants and other assistance provided under this Act. Such per-

formance measures shall be used to evaluate project proposals and conduct evaluations of projects receiving such assistance.

SEC. 704. MAINTENANCE OF STANDARDS.

The Federal Cochairman shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date of the Economic Development Partnership Act of 1995.

SEC. 705. TRANSFER OF FUNCTIONS.

The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of such Act are hereby vested in the Federal Cochairman.

SEC. 706. DEFINITION OF STATE.

In this Act, the terms "State", "States", and "United States" include the several States and each of the other political entities included in a region established by section 106.

SEC. 707. ANNUAL REPORT TO CONGRESS.

The Federal Cochairman shall transmit a comprehensive and detailed annual report to Congress of the Federal Cochairman's and each Regional Commission's operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1996. Such report shall be printed and shall be transmitted to Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

SEC. 708. USE OF OTHER FACILITIES.

(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Federal Cochairman may delegate to the heads of other departments and agencies of the Federal Government any of the Federal Cochairman's functions, powers, and duties under this Act as the Federal Cochairman may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

(b) DEPARTMENT AND AGENCY EXECUTION OF DELEGATED AUTHORITY.—Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

(c) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(d) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Federal Cochairman may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the

heading "salaries and expenses" by the Federal Cochairman to the extent necessary to administer the program.

SEC. 709. PENALTIES.

(a) FALSE STATEMENTS; SECURITY OVERVALUATION.—Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for such person or for any applicant any financial assistance under this Act or any extension of such assistance by renewal, deferment or action, or otherwise, or the acceptance, release, or substitution of security for such assistance, or for the purpose of influencing in any way the action of the Federal Cochairman or a Regional Commission or for the purpose of obtaining money, property, or anything of value, under this Act, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(b) EMBEZZLEMENT AND FRAUD-RELATED CRIMES.—Whoever, being connected in any capacity with the Federal Cochairman or a Regional Commission, in the administration of this Act—

(1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to such person or pledged or otherwise entrusted to such person;

(2) with intent to defraud the Federal Cochairman or a Regional Commission or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner, makes any false entry in any book, report, or statement of or to the Federal Cochairman or a Regional Commission, or without being duly authorized draws any orders or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

(3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Federal Cochairman or a Regional Commission; or

(4) gives any unauthorized information concerning any future action of plan of the Federal Cochairman or a Regional Commission which might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Federal Cochairman or a Regional Commission,

shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

SEC. 710. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

No financial assistance shall be extended by a Regional Commission under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

(1) certify to the Regional Commission the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Regional Commission for assistance of any

sort, under this Act, and the fees paid or to be paid to any such person; and

(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Regional Commission to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Regional Commission determines involves discretion with respect to the granting of assistance under this Act.

SEC. 711. PERSONAL FINANCIAL INTERESTS.

(a) IN GENERAL.—Except as permitted by subsection (b), no State member or alternate and no officer or employee of a Regional Commission shall participate personally and substantially as member, alternate, officer, or employee, 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 particular matter in which, to the individual's knowledge, the individual, the individual's spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which the individual is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the individual is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any individual who shall violate the provisions of this subsection shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.

(b) EXCEPTION.—Subsection (a) shall not apply if the State member, alternate, officer, or employee first advises the Regional Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Regional Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Regional Commission may expect from such State member, alternate, officer, or employee.

(c) SALARIES.—No State member or alternate of a Regional Commission shall receive any salary, or any contribution to or supplementation of salary for the individual's services on the Regional Commission from any source other than the State of the individual. No individual detailed to serve the Regional Commission under authority of section 105 shall receive any salary or any contribution to or supplementation of salary for the individual's services on the Regional Commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from the Regional Commission. Any individual who shall violate the provisions of this subsection shall be fined

under title 18, United States Code, imprisoned for not more than 1 year, or both.

(d) NONAPPLICABILITY TO FEDERAL OFFICIALS.—Notwithstanding any other provision of this section, the Federal Cochairman (or the Federal Cochairman's alternate) and any Federal officers or employees detailed to duty with a Regional Commission pursuant to section 105 shall not be subject to such provisions but shall remain subject to sections 202 through 209 of title 18, United States Code.

(e) AUTHORITY TO RESCIND CERTAIN AGREEMENTS.—A Regional Commission may, in the Regional Commission's discretion, declare void and rescind any agreement to extend financial assistance under this Act entered into by the Regional Commission in relation to which the Regional Commission finds that there has been a violation of subsection (a) or (c) of this section or any of the provisions of sections 202 through 209 of title 18, United States Code.

SEC. 712. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

(a) MAINTENANCE OF RECORD REQUIRED.—The Federal Cochairman shall maintain as a permanent part of the records of the Economic Development Commission a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Economic Development Commission.

(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

(2) The amount and duration of the financial assistance for which application is made.

(3) The purposes for which the proceeds of the financial assistance are to be used.

SEC. 713. RECORDS AND AUDIT.

(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Federal Cochairman shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Federal Cochairman and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

SEC. 714. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or

permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

SEC. 715. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

A Regional Commission may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

TITLE VIII—FUNDING

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $340,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Such sums shall remain available until expended.

SEC. 802. DEFENSE CONVERSION ACTIVITIES.

In addition to the appropriations authorized by section 801, there are authorized to be appropriated to carry out this Act such sums as may be necessary to provide assistance for defense conversion activities. Such funding may include pilot projects for privatization and economic development activities for closed or realigned military installations. Such sums shall remain available until expended.

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.

Under Secretaries of State (5).

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Federal Cochairman of the Economic Development Commission.

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§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

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[Administrator for Economic Development.]

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Alternate for the Federal Cochairman of the Economic Development Commission.

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APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

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FINDINGS AND STATEMENT OF PURPOSE

SEC. 2. (a) * * *

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(c) 1995 FINDINGS AND PURPOSES.—The Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economies over the past decade have created new problems and challenges for rural areas throughout the Nation and especially for the Appalachian region. It is, therefore, also the purpose of this Act to assist the region in providing the infrastructure necessary for economic and human resource development, in developing its industry, in building entrepreneurial communities, in generating a diversified regional economy, and in making its industrial and commercial resources more competitive in national and world markets. It is further the purpose of this Act to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitive challenge through improving the skills of the region's workforce, adapting and applying new technologies for the region's businesses, and improving the access of the region's businesses to the technical and financial resources necessary to their development. Finally, it is the purpose of this Act to address the needs of severely and persistently distressed and underdeveloped areas of

the region so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across this Nation.

TITLE I—THE APPALACHIAN REGIONAL COMMISSION

MEMBERSHIP AND VOTING

SEC. 101. (a) There is hereby established an Appalachian Regional Commission (hereinafter referred to as the "Commission") which shall be composed of one Federal member, hereinafter referred to as the "Federal Cochairman," appointed by the President by and with the advice and consent of the Senate, and one member from each participating State in the Appalachian region. The Federal Cochairman shall be one of the two Cochairmen of the Commission. Each State member shall be the Governor. The State members of the Commission shall elect a Cochairman of the Commission from among their number for a term of not less than one year. *The Commission shall conduct at least one meeting each year with the Federal Cochairman and at least a majority of the State members present. The Commission may conduct such additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.*

(b) Except as provided in section 105, decisions by the Commission shall require the affirmative vote of the Federal Cochairman and of a majority of the State members (exclusive of members representing States delinquent under section 105). In matters coming before the Commission, the Federal Cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter. [No decision involving Commission policy, approval of State, regional or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States may be made without a quorum of State members present.] *No decision involving Commission policy, approval of State, regional, or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, any allocation of funds among the State, or any designation of a distressed county or an economically competitive county may be made without a quorum of State members.* The approval of project and grant proposals shall be a responsibility of the Commission and exercised in accordance with section 303 of this Act.

(c) Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal representative for which he is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required [to be present]. No Commission powers or responsibilities specified in the last two sentences of subsection (b) of this

section, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings.

* * * * * * *

ADMINISTRATIVE EXPENSES OF THE COMMISSION

SEC. 105. (a) * * *

[(b) To carry out this section there is hereby authorized to be appropriated to the Commission to be available until expended, not to exceed $1,900,000 for the two-fiscal-year period ending June 30, 1971. To carry out this section there is hereby authorized to be appropriated to the Commission, to be available until expended not to exceed $2,700,000 for the two-fiscal-year period ending June 30, 1973 (of such amount not to exceed $525,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff), and not to exceed $3,000,000 for the two-fiscal-year period ending June 30, 1975 (of such amount not to exceed $575,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff. To carry out this section there is hereby authorized to be appropriated to the Commission, to be available until expended, not to exceed $4,600,000 for the period beginning July 1, 1975, and ending September 30, 1977, (of such amount not to exceed $800,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff), and not to exceed $5,000,000 for the two-fiscal-year period ending September 30, 1979 (of such amount not to exceed $900,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff), and not to exceed $6,700,000 for the two-fiscal-year period ending September 30, 1981 (of such amount not to exceed $1,100,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff), and not to exceed $2,900,000 for the two-fiscal-year period ending September 30, 1982 (of such amount not to exceed $400,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).]

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $3,645,000 per fiscal year for each of fiscal years 1996 through 2000. Such sums shall remain available until expended.

(2) EXPENSES OF FEDERAL COCHAIRMAN.—Of the amounts appropriated pursuant to paragraph (1), not to exceed $1,245,000 per fiscal year for each of fiscal years 1996 through 2000 shall be available for expenses of the Federal Cochairman, the Federal Cochairman's alternate, and the Federal Cochairman's staff.

ADMINISTRATIVE POWERS OF COMMISSION

SEC. 106. To carry out its duties under this Act, the Commission is authorized to—

(1) * * *

* * * * * * *

(7) *subject to the requirements of the Federal Property and Administrative Services Act of 1949,* enter into and perform

such contracts, leases (including [notwithstanding any other provision of law,] the lease of office space for any term expiring no later than September 30, [1982] *2000*), cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States (which is hereby so authorized to the extent not otherwise prohibited by law) or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(8) *subject to the requirements of the Federal Property and Administrative Services Act of 1949,* maintain a temporary office in the District of Columbia and establish a permanent office at such a cental and appropriate location as it may select and field offices as such other places as it may deem appropriate.

* * * * * * *

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

SEC. 201. (a) * * *

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[(g) To carry out this section there is hereby authorized to be appropriated to the President, to be available until expended, $175,000,000 for the fiscal year ending June 30, 1971; $175,000,000 for the fiscal year ending June 30, 1972; $180,000,000 for the fiscal year ending June 30, 1973; $180,000,000 for the fiscal year ending June 30, 1974; $185,000,000 for the fiscal year ending June 30, 1975; $185,000,000 for the fiscal year ending June 30, 1976; $185,000,000 for the fiscal year ending June 30, 1977; $250,000,000 for the fiscal year 1978; $300,000,000 for the fiscal year 1979; $300,000,000 for the fiscal year 1980; and $215,000,000 for fiscal year 1981, and $65,000,000 for fiscal year 1982.]

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $90,000,000 per fiscal year for each of fiscal years 1996 through 2000. Such sums shall remain available until expended.

(h)(1) When a participating State proceeds to construct a segment of a development highway without the aid of Federal funds, in accordance with all procedures and requirements applicable to the construction of segments of Appalachian development highways with such funds, except insofar as such procedures and requirements limit a State to the construction of projects for which Federal funds have previously been appropriated, the Secretary, upon application by the State and with the approval of the Commission, is authorized to pay to the State the Federal share not to exceed [70 per centum] *80 percent* of the costs of the construction of such segment, from any sums appropriated and allocated to such State to carry out this section.

* * * * * * *

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

* * * * * * *

SEC. 202. (a) * * *

* * * * * * *

(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the costs of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this section, may be made for up to [100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project. For the next three years of operations such grants shall not exceed 75 per centum of such costs.] *50 percent of the costs thereof (or 80 percent of such costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226).* The Federal contribution may be provided entirely from funds appropriated to carry out this section or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provision of health and child development services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approved by the Commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grant for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project, that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations. No such grants shall be made unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. Notwithstanding section 104 of the Public Works and Economic Development Act of 1965 (79 Stat. 554), a health-related facility constructed under title I of that Act may be a component of a demonstration health project eligible for operating grant assistance under this section.

* * * * * * *

(f) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1995.—After September 30, 1995, not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act; except that such maximum Commission contribution may be increased to 80 percent, or to the percentage of the maximum Federal contribution authorized by this section, whichever is less, for a project to be carried out in a county for which a distressed county designation is in effect under section 226.

[LAND STABILIZATION, CONSERVATION, AND EROSION CONTROL

[SEC. 203. (a) In order to provide for the control and prevention of erosion and sediment damages in the Appalachian region and to promote the conservation and development of the soil and water resources of the region the Secretary of Agriculture is authorized to enter into agreements of not more than ten years with landowners, operators, and occupiers, individually or collectively, in the Appalachian region determined by him to have control for the period of the agreement of the lands described therein providing for land stabilization, erosion and sediment control, and reclamation through changes in land use, and conservation treatment including the establishment of practices and measures for the conservation and development of soil, water, woodland, wildlife, and recreation resources.

[(b) The landowner, operator, or occupier shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the appropriate and safe land uses and conservation treatment mutually agreed by the Secretary and the landowner, operator, or occupier to be needed on the lands for which the plan was prepared.

[(c) Such plan shall be incorporated in an agreement under which the landowner, operator, or occupier shall agree with the Secretary of Agriculture to carry out the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

[(d) In return for such agreement by the landowner, operator, or occupier the Secretary of Agriculture shall be authorized to furnish financial and other assistance to such landowner, operator, or occupier in such amounts and subject to such conditions as the Secretary determines are appropriate and in the public interest for the carrying out of the land uses and conservation treatment set forth in the agreement: *Provided*, That grants hereunder shall not exceed 80 per centum of the costs of carrying out such land uses and conservation treatment on fifty acres of land occupied by such owner, operator, or occupier.

[(e) The Secretary of Agriculture may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

[(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the

purposes of this section, may provide in any agreement hereunder for first, preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or second, surrender of any such history and allotments.

[(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

[(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service, and the State and local committees provided for in section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), and is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out the provisions of this subsection unless funds specifically appropriated for such purpose have been transferred to it.

[(i) Not to exceed $19,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

[TIMBER DEVELOPMENT ORGANIZATIONS

[SEC. 204. (a) In order that the region shall more fully benefit from the timber stands that are one of its prime assets, the Secretary of Agriculture is authorized to—

[(1) provide technical assistance in the organization and operation, under State law, of private timber development organizations having as their objective the carrying out of timber development programs to improve timber productivity and quality, and increase returns to landowners through establishment of private nonprofit corporations, which on a self-supporting basis may provide (A) continuity of management, good cutting practices, and marketing services, (B) physical consolidation of small holdings or administrative consolidation for efficient management under long-term agreement, (C) management of forest lands, donated to the timber development organizations for demonstrating good forest management, on a profitable and taxpaying basis, and (D) establishment of a permanent fund for perpetuation of the work of the corporations to be composed of donations, real or personal, for educational purposes.

[(2) provide not more than one-half of the initial capital requirements of such timber development organizations through loans under the applicable provisions of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926 et seq.). Such loans shall not be used for the construction or acquisition of facilities for manufacturing, processing, or marketing forest products, or for physical consolidation of small timber holdings authorized by (1)(B) above except for the establishment of demonstration units.

[(b) The Secretary of Agriculture is authorized to provide technical assistance, make grants, enter into contracts, or otherwise

provide funds, first to colleges, universities and other institutions of higher education (with priority to land grant schools), and thereafter to forest products research institutions in the region and other appropriate public and private organizations, which schools, institutions and organizations have the demonstrated capability to perform such research, for Appalachian hardwood products research, including investigations, studies, and demonstrations, which will further the purposes of this Act. Funds shall be provided only for programs and projects which will contribute significantly to the development of first, Appalachian hardwood technology, second, new or improved uses of Appalachian hardwood resources, third, new or improved processes or methods for producing hardwood products, or fourth, new or improved markets for such products. Funds under this section shall be provided solely out of sums specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the allocation or distribution of funds pursuant to any other provision of law.

[(c) Not to exceed $2,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out the purposes of subsection (b) of this section.

[MINING AREA RESTORATION

[SEC. 205. (a) In order to further the economic development of the region by rehabilitating areas presently damaged by deleterious mining practices, the Secretary of the Interior is authorized to—

[(1) makes financial contributions to States in the region to seal and fill voids in abandoned coal mines and abandoned oil and gas wells, and to reclaim and rehabilitate lands affected by the strip and surface mining and processing of coal and other minerals, including lands affected by waste piles, in accordance with provisions of the Act of July 15, 1955 (30 U.S.C. 571 et seq.), to the extent applicable, without regard to section 2(b) thereof (30 U.S.C. 572(b)) or to any provisions therein limiting assistance to anthracite coal formation, or the Commonwealth of Pennsylvania; to control and abate mine drainage pollution; and for planning or engineering for any such activities. Grants under this paragraph shall be made wholly out of funds specifically appropriated for the purposes of carrying out this Act.

[(2) plan and execute projects for planning, engineering, or extinguishing underground and outcrop mine fires in the region or to make grants to the States for carrying out such projects, in accordance with the applicable provisions of the Act of August 31, 1954 (30 U.S.C. 551 et seq.), without regard to any provisions therein relating to annual appropriation authorization ceilings. Grants under this paragraph shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act.

[(b) Notwithstanding any other provision of law, the Federal share of mining area restoration project costs carried out under subsection (a) of this section and conducted on lands other than federally owned lands shall not exceed 75 per centum of the total cost thereof. For the purposes of this section, such project costs

may include the reasonable value (including donations), of planning, engineering, real property acquisition (limited to the reasonable value of the real property in its unreclaimed state and costs incidental to its acquisition, as determined by the Commission), and such other materials (including, but not limited to, sand, clay, stone, culm, rock, spoil bank and noncombustible materials) and services as may be required for such project.

[(c) Whenever a State, local government, or other nonprofit applicant agrees to indemnify the Federal Government, or its officers, agents, or employees, for all claims of loss or damage resulting from the use and occupation of lands for a project assisted under this section, the Secretary may waive all requirements for the submission of releases, consents, waivers, or similar instruments respecting such lands, but the Secretary may require security as he deems appropriate for any such indemnification agreement.

[(d) No moneys authorized by this Act shall be expended for the purpose of reclaiming, improving, grading, seeding, or reforestation of strip-mined areas, except on lands owned by Federal, State, or local government bodies or by private nonprofit entities organized under State law to be used for public recreation, conservation, community facilities, or public housing.

[WATER RESOURCE SURVEY

[SEC. 206 (a) The Secretary of the Army is hereby authorized and directed to prepare a comprehensive plan for the development and efficient utilization of the water and related resources of the Appalachian region, giving special attention to the need for an increase in the production of economic goods and services within the region as a means of expanding economic opportunities and thus enhancing the welfare of its people, which plan shall constitute an integral and harmonious component of the regional economic development program authorized by this Act.

[(b) This plan may recommend measures for the control of floods, the regulation of the rivers to enhance their value as sources of water supply for industrial and municipal development, the generation of hydroelectric power, the prevention of water pollution by drainage from mines, the development and enhancement of the recreational potentials of the region, the improvement of the rivers for navigation where this would further industrial development at less cost than would the improvement of other modes of transportation, the conservation and efficient utilization of the land resource, and such other measures as may be found necessary to achieve the objectives of this section.

[(c) To insure that the plan prepared by the Secretary of the Army shall constitute a harmonious component of the regional program, he shall consult with the Commission and the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of the Interior, Secretary of Transportation, the Tennessee Valley Authority, and the Federal Power Commission.

[(d) The plan prepared pursuant to this section shall be submitted to the Commission. The Commission shall submit the plan to the President with a statement of its views, and the President shall

submit the plan to the Congress with his recommendations not later than December 31, 1968.

[(e) The Federal agencies referred to in subsection (c) of this section are hereby authorized to assist the Secretary of the Army in the preparation of the plan authorized by this section, and the Secretary of the Army is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to the preparation of this plan and on such terms as he may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

[(f) The plan to be prepared by the Secretary of the Army pursuant to this section shall also be coordinated with all comprehensive river basin plans heretofore or hereafter developed by United States study commissions, interagency committees, or similar planning bodies, for those river systems draining the Appalachian region.

[(g) Not to exceed $2,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.]

ASSISTANCE FOR PLANNING AND OTHER PRELIMINARY EXPENSES OF PROPOSED LOW- AND MODERATE-INCOME HOUSING PROJECTS

SEC. 207. (a) * * *

(b) No loan under subsection (a) of this section shall exceed [80 per centum] *50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)* of the cost of planning and obtaining financing for a project, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, applications and mortgage commitment fees, legal fees, and construction loan fees and discounts. Such loans shall be made without interest, except that any loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for such project. The Secretary shall require payments of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of such a loan, if he determines that a permanent loan to finance such project cannot be obtained in an amount adequate for repayment of such loan under this section.

(c)(1) Except as provided in paragraph (2) of this subsection, no grant under this section shall exceed [80 per centum] *50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)* of those expenses, incident to planning and obtaining financing for a project, which the Secretary considers not to be recoverable from the proceeds of any permanent loan made to finance such project, and no such grant shall, be made to an organization established for profit.

* * * * * * *

[APPALACHIAN AIRPORT SAFETY IMPROVEMENTS

[SEC. 208. (a) In order to provide a system of airports in the Appalachian region which can accommodate a greater number of passengers in safety and thereby increase commerce and communication in areas with developmental potential, the Secretary of Transportation (hereafter in this section referred to as the "Secretary") is authorized to make grants to existing airports for the purpose of enhancing the safety of aviation and airport operations.

[(b) Such airport safety improvement projects may include (A) approach clearance, the removal, lowering, relocation, and marking and lighting of airport hazards, navigation aids, site preparation for navigation aids, and the acquisition of adequate safety equipment (including firefighting and rescue equipment), and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace which is necessary for such projects or to remove or mitigate or prevent or limit the establishment of, airport hazards.

[(c) Grants under this section shall be made solely from funds specifically made available to the President for the purpose of carrying out this Act in accordance with the provisions of this Act, and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

[(d) Except as context otherwise indicates, words and phrases used in this section shall have the same meaning as in the Airport and Airways Development Act of 1970 and the Federal Aviation Act of 1958, as amended.

[(e) Federal assistance to any project under this section shall not exceed 90 per centum of the costs of the project, except for assistance for navigation aids which may be 100 per centum.

[(f) The Secretary is authorized to incur obligations to make grants for airport safety improvement projects, in a total amount not to exceed $40,000,000 during the period ending June 30, 1975. There are authorized to be appropriated to the President such sums as may be required for liquidation of the obligations incurred under this section.]

PART B—SUPPLEMENTATIONS AND MODIFICATIONS OF EXISTING PROGRAMS

VOCATIONAL EDUCATION FACILITIES AND VOCATIONAL AND TECHNICAL EDUCATION DEMONSTRATION PROJECTS

SEC. 211. (a) * * *

(b)(1) * * *

* * * * * * *

(3) Grants under this section for operation of components of education demonstration projects, whether or not constructed by funds authorized by this Act, may be made for up to [100 per centum of the costs thereof for the two-year period beginning on the first day that such component is in operation as a part of the project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs.] *50 percent of the costs thereof (or 80 percent of such costs in the case of a project to be carried out in a coun-*

ty for which a distressed county designation is in effect under section 226). No grants for operation of education demonstration projects shall be made after five years following the commencement of the initial grant for operation of the project. Notwithstanding section 104 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3134), an education-related facility constructed under title I of that Act may be a component of an education demonstration project eligible for operating grant assistance under this section.

* * * * * * *

(c) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1995.—After September 30, 1995, not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act; except that such maximum Commission contribution may be increased to 80 percent, or to the percentage of the maximum Federal contribution authorized by this section, whichever is less, for a project to be carried out in a county for which a distressed county designation is in effect under section 226.

[SEWAGE TREATMENT WORKS

[SEC. 212. (a) In order to provide facilities to assist in the prevention of pollution of the region's streams and to protect the health and welfare of its citizens, the Secretary of Health, Education, and Welfare is authorized to make grants for the construction of sewage treatment works in accordance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.), without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the computation of the allotments among the States pursuant to any other provision of law.

[(b) Not to exceed $6,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

[AMENDMENTS TO HOUSING ACT OF 1954

[SEC. 213. (a) Section 701(a) of the Housing Act of 1954 (40 U.S.C. 461(a)) is amended by striking out "and" at the end of clause (8) and all of clause (9) and inserting in lieu thereof the following:

["(9) the Appalachian Regional Commission, for comprehensive planning for the Appalachian region as defined by section 403 of the Appalachian Regional Development Act of 1965; and

["(10) local development districts, certified under section 301 of the Appalachian Regional Development Act of 1965, for comprehensive planning for their entire areas, or for metropolitan planning, urban planning, county planning, or small municipality planning within such areas in the Appalachian region, and for planning for Appalachian regional programs."

[(b) The proviso of the first sentence of section 701(b) of the Housing Act of 1954 is amended by inserting after "States" the words "and local development districts."]

SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS

SEC. 214. (a) In order to enable the people, States, and local communities of the region, including local development districts, to take maximum advantage of Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient funds available under the Federal grant-in-aid Act authorizing such programs to meet pressing needs of the region, [the President is authorized to provide funds to the Federal Cochairman to be used] *the Federal Cochairman may use amounts made available to carry out this section* for all or any portion of the basic Federal contribution to projects or activities (hereinafter referred to as projects) under such Federal grant-in-aid programs authorized by Federal grant-in-aid Acts, and for the purpose of increasing the Federal contribution to projects under such programs, as hereafter defined, above the fixed maximum portion of the cost of such projects otherwise authorized by the applicable law. 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-in-aid program is proposed to be made under this subsection, no such Federal contribution shall be made until the responsible Federal official administering the Federal grant-in-aid Act authorizing such contribution certifies that such program or project meets the applicable requirements of such Federal grant-in-aid Act and could be approved for Federal contribution under such Act if funds were available under such Act for such program or project. Funds may be provided for programs and projects in a State under this subsection only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act, for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this subsection. Funds provided pursuant to this Act shall be available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other Act. Any findings, 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-in-aid program shall be accepted by the Federal Cochairman with respect to a supplemental grant for any project under such program.

(b)*(1)* The Federal portion of such costs shall not be increased in excess of the percentage established by the Commission, and shall in no event exceed 80 per centum thereof.

(2) After September 30, 1995, not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act; except that such maximum Commission contribution may be increased to 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 226.

(c) The term "Federal grant-in-aid programs" as used in this section means those Federal grant-in-aid programs authorized [on or before December 31, 1980,] by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid progams authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Helath Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; title VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; titles I and IX of the Public Works and Economic Development Act of 1965; the housing repair program for homeowners authorized by section 1319 of title 42, United States Code; grants under the Indian Health Service Act (42 Stat. 208); and title I of the Housing and Community Development Act of 1974. The term shall not include (A) the program for the construction of the development highway system authorized by section 201 of this Act or any program relating to highway or road construction *authorized by title 23, United States Code* or (B) any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act. For the purpose of this section, any sewage treatment works constructed pursuant to section 8(c) of the Federal Water Pollution Control Act without Federal grant-in-aid assistance under such section shall be regarded as if constructed with such assistance.

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PART C—GENERAL PROVISIONS

* * * * * * *

PROGRAM DEVELOPMENT CRITERIA

SEC. 224. (a) In considering programs and projects to be given assistance under this Act, and in establishing a priority ranking of the requests for assistance presented to the Commission, the Commission shall follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall regional development including its location in an area determined by the State to have a significant potential for growth *or in a severely and persistently distressed and underdeveloped county or area*;

* * * * * * *

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather that a temporary basis, the opportunities for employment, the average level of income, or the economic and social 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 may be justified.

[(b) No financial assistance shall be authorized under this Act to be used (1) to assist establishments relocating from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).]

(b) LIMITATION.—No financial assistance made available under this Act may be used to assist establishments relocating from one area to another.

* * * * * * *

SEC. 226. DISTRESSED AND ECONOMICALLY COMPETITIVE COUNTIES.

(a) DESIGNATIONS.—Not later than 90 days after the effective date of the Economic Development Partnership Act of 1995, and annually thereafter, the Commission, in accordance with such criteria as the Commission may establish, shall—

(1) designate as "distressed counties" those counties in the region that are the most severely and persistently distressed and underdeveloped; and

(2) designate as "economically competitive counties" those counties in the region which have attained substantial economic parity with the rest of the Nation.

(b) PERIOD OF EFFECTIVENESS.—In making annual designations under subsection (a), the Commission may discontinue an existing designation at the discretion of the Commission; except that any designation of a distressed county shall remain in effect for the 3-year period beginning on the date of the designation.

(c) FUNDING PROHIBITION FOR PROJECTS LOCATED IN ECONOMICALLY COMPETITIVE COUNTIES.—

(1) IN GENERAL.—Except as provided by paragraph (2), no funds may be provided under this Act for a project located in a county for which an economically competitive county designation is in effect under this section.

(2) EXCEPTIONS.—The prohibition established by paragraph (1) shall not apply to—

(A) projects on the Appalachian development highway system authorized by section 201;

(B) local development district administrative projects authorized by section 302(a)(1); or

(C) discretionary grants authorized by section 302(a).

TITLE III—ADMINSTRATION

* * * * * * *

GRANTS FOR ADMINISTRATION EXPENSES OF LOCAL DEVELOPMENT DISTRICTS AND FOR RESEARCH AND DEMONSTRATION PROJECTS

SEC. 302. (a) [The President] *The Commission* is authorized—

(1) to make grants [to the Commission] for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but (A) the amount of any such grant shall not exceed [75 per centum] *50 percent* of such expenses, (B) no grants for administrative expenses shall be made for a State agency certified as a local development district for a period in excess of three years beginning on the date the initial grant is made for such development district, and (C) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including but not limited to space, equipment, and services;

(2) to make grants [to the Commission] for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and

(3) to make grants [to the Commission] for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainment of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to such activities, which will further the purposes of this Act. Grant funds may be provided entirely from appropriations to carry out this section or in combination with funds available under other Federal or Federal grant-in-aid programs or from any other source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate. *After September 30, 1995, not more than 50 percent of the cost of any activity eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act (or 80 percent of such costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226); except that discretionary grants by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to such percentage limitations. The aggregate amount of discretionary grants referred to in the preceding sentence in any fiscal year shall not exceed 10 percent of the amounts appropriated under section 401 for such fiscal year.*

* * * * * * *

(b)(1) * * *

* * * * * * *

[(3) The Commission shall conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian mi-

grants. The Commission is authorized to conduct pilot projects and demonstrations within the region in connection with such study.

[(4) The Commission shall conduct a study of physical hazards which are constraints on land use in the Appalachian region (with emphasis on mudslides, landslides, sink holes, and subsidence) and the risks associated with such hazards. To the extent practicable, such study shall identify high-risk hazard areas throughout the Appalachian region. The Commission shall submit its report on such study, together with recommendations for means to remove or avoid such constraints on land use, to the Congress not later than twenty-four months after the enactment of this paragraph.]

* * * * * * *

[(d) Not to exceed $11,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section. Not to exceed $3,000,000 of such authorization shall be available for the purpose of subsection (b).

[(e) No part of any appropriated funds may be expended pursuant to authorization given by this Act involving any scientific or technological research for development activity unless such expenditure is conditioned upon provisions effective to insure that all information, copywrights, uses, processes, patents, and other developments resulting from that activity will be made freely available to the general public. Nothing contained in this subsection shall deprive the owner of any background patent relating to any such activity, without his consent, of any right which that owner may have under that patent. Whenever any information, copyright, use, process, patents, and other development resulting from any such research or development activity conducted in whole or in part with appropriated funds expended under authorization of this Act is withheld or disposed of by any person, organization, or agency in contravention of the provisions of this subsection, the Attorney General shall institute, upon his own motion or upon request made by any person having knowledge of pertinent facts, an action for the enforcement of the provisions of this subsection in the district court of the United States for any judicial district in which any defendant resides, is found, or has a place of business. Such court shall have jurisdiction to hear and determine such action, and to enter therein such orders and decrees as it shall determine to be required to carry into effect fully the provisions of this subsection. Process of the district court for any judicial district in any action instituted under this subsection may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.]

* * * * * * *

TITLE IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 401. In addition to the appropriations authorized in section 105 for administrative expenses, in section 201 for the Appalachian Development Highway System and Local Access Roads, and in section 208 for Appalachian Airport Safety Improvements, there is hereby authorized, to be appropriated to the President, to be available until expended, to carry out this Act, $268,500,000 for the two-fiscal year period ending June 30, 1971; $282,000,000 for the two-fiscal year period ending June 30, 1973; and $294,000,000 for the two-fiscal year period ending June 30, 1975. In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out this Act, $340,000,000 for the period beginning July 1, 1975, and ending September 30, 1977, and $300,000,000 for the two-fiscal year period ending September 30, 1979, and $300,000,000 for the two-fiscal-year period ending September 30, 1981, and $50,000,000 for the fiscal year period ending September 30, 1982. No part of the sums authorized in this section for the fiscal year ending September 30, 1982, shall be obligated for any project unless such project was undertaken with funds obligated in a previous fiscal year or is a capital project which was originally approved for funding in fiscal year 1981 and can be started and completed with funds authorized for fiscal year 1982. No part of the sums authorized in this section for the fiscal year ending September 30, 1982, shall be obligated for any project unless such project was undertaken with funds obligated in a previous fiscal year or is a capital project which was originally approved for funding in fiscal year 1981 and can be started and completed with funds authorized for fiscal year 1982.]

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

In addition to the appropriations authorized by section 105 for administrative expenses and by section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the Commission to carry out this Act $88,355,000 per fiscal year for each of fiscal years 1996 through 2000. Such sums shall remain available until expended.

* * * * * * *

TERMINATION

SEC. 405. This Act, other than section 201, shall cease to be in effect on October 1, [1982] *2000*.

SUMMARY OF COMMITTEE VOTES

The Committee on Transportation and Infrastructure held a full committee markup on September 28, 1995. The bill was amended and passed by voice vote.

Subsequently, on October 11, 1995, the Transportation and Infrastructure Committee met and approved revised reconciliation recommendations by a recorded vote of 38–5. The committee's action on October 11 superceded and replaced in full previous reconciliation recommendations transmitted to the Budget Committee.

The vote on passage was as follows:

Member	Aye	No	Present
Mr. Bachus	X		
Mr. Baker	X		
Mr. Barcia			
Mr. Bateman			
Mr. Blute	X		
Mr. Boehlert	X		
Mr. Borski			
Mr. Brewster	X		
Ms. Brown			
Mr. Clement	X		
Mr. Clinger	X		
Mr. Clyburn	X		
Mr. Coble			
Ms. Collins			
Mr. Costello	X		
Mr. Cramer			
Ms. Danner		X	
Mr. DeFazio			
Mr. Duncan	X		
Mr. Ehlers	X		
Mr. Emerson	X		
Mr. Ewing			
Mr. Filner		X	
Mrs. Fowler	X		
Mr. Franks	X		
Mr. Gilchrest	X		
Mr. Hayes		X	
Mr. Horn			
Mr. Hutchinson	X		
Ms. Johnson	X		
Mrs. Kelly	X		
Mr. Kim	X		
Mr. LaHood	X		
Mr. Latham	X		
Mr. LaTourette	X		
Mr. Lipinski	X		
Ms. McCarthy			
Mr. Martini	X		
Mr. Mascara	X		
Mr. Menendez		X	
Mr. Mica			
Ms. Molinari	X		
Mr. Nadler		X	
Ms. Norton			
Mr. Oberstar	X		
Mr. Parker	X		
Mr. Petri	X		
Mr. Poshard	X		
Mr. Quinn	X		
Mr. Rahall	X		
Mrs. Seastrand	X		
Mr. Tate	X		
Mr. Traficant			
Mr. Tucker			
Mr. Wamp	X		
Mr. Weller	X		
Mr. Wise	X		
Mr. Young			

Member	Aye	No	Present
Mr. Zeliff	.....	.....	.....
Mr. Shuster, Chairman	X	.....	.....
Total	38	5	.....

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 11, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the reconciliation recommendations of the House Committee on Transportation and Infrastructure.

The estimate shows the budgetary effects of the committee's proposals over the 1966–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director.)

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Reconciliation recommendations of the House Committee on Transportation and Infrastructure.

3. Bill status: As ordered reported by the House Committee on Transportation and Infrastructure on October 11, 1995.

4. Bill purpose: The provisions of this title would reduce the deficit over the 1996–2002 period by extending certain Federal fees, authorizing new fee collections, and providing for the sale of certain Federal assets. Other provisions of this title would deregulate the ocean shipping industry, provide for the disposition of surplus Federal lands in Illinois, and authorize appropriations for economic development programs. Finally, two provisions of subtitle A would prevent the Army Corps of Engineers from implementing certain provisions of other reconciliation titles. This subtitle would prohibit the sale of any project or project feature operated by the corps and would prohibit the agency from modifying any aspect of its existing concessions program, including specific contract terms and conditions and general concession management policies and practices.

5. Estimated cost to the Federal Government: CBO estimates that, over the 1996–2002 period, the provisions of this title would

reduce direct spending by $1.1 billion, and would result in proceeds from asset sales totaling $544 million. In addition, we estimate that the title would provide for an increase in discretionary spending totaling about $2.6 billion over the 1996–2002 period, assuming appropriation of the authorized amounts.

The estimate of the changes from this provision are summarized in table 1.

TABLE 1.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

[By fiscal years, in millions of dollars]

	19976	1997	1998	1999	2000	2001	2002
CHANGES IN DIRECT SPENDING							
Estimated budget authority	−78	−129	−134	−188	−192	−196	−200
Estimated outlays	−78	−129	−134	−188	−192	−196	−200
RECEIPTS FROM ASSET SALES [1]							
Estimated budget authority	−2	−42	0	−500	0	0	0
Estimated outlays	−2	−42	0	−500	0	0	0
ADDITIONAL SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Estimated authority level	627	645	624	626	626	105	106
Estimated outlays	25	165	341	471	591	608	495
REVENUES							
Estimated revenues	([2])	([2])	([2])	([2])	([2])	([2])	([2])

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

[2] Less than $500,000.

The cost of this title fall primarily within budget functions 050, 300, 400, 450, and 700.

6. Basis of estimate: For purposes of this estimate, CBO assumes that the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

Charging fees for parking at Federal facilities.—Section 10404 would provide that each executive agency charge users the commercial value of any parking furnished at Government expense. Charges collected would be deposited in the Treasury. The General Services Administration [GSA] would be responsible for prescribing any regulations including the method for determining commercial value. Agencies would be responsible for expenses related to operating and maintaining the spaces and would have 90 days from enactment to begin charging any fees. Spaces reserved for official vehicles would be exempt. In addition, the provision would not apply to Members or employees of the Congress.

Based on the available data regarding the number of Federal parking spaces, commercial parking rates, and an expected decline in the demand for parking by users as a result of higher rates, CBO estimates that charging fees for parking would result in new offsetting receipts totaling $821 million over 7 years. This estimate assumes that agencies would begin imposing parking fees on March 1, 1996. The effects of section 10404 are summarized in table 2.

TABLE 2.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL TO CHARGE PARKING FEES AT FEDERAL FACILITIES

[By fiscal years in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CHANGES IN DIRECT SPENDING							
Estimated budget authority	−65	−116	−120	−124	−128	−132	−136
Estimated outlays	−65	−116	−120	−124	−128	−132	−136

Extensions of existing Federal fees.—Two provisions would extend fees that would otherwise expire during the 1996–2002 period. First, section 10004 would extend, through fiscal year 2005, the authority of the Federal Emergency Management Agency [FEMA] to charge fees for radiological emergency preparedness. The legislation would require that the fees be deposited in the general fund of the Treasury as offsetting receipts. At present, these fees total about $12 million each year and are credited as offsetting collections to appropriations. We estimate that the new authority would generate similar amounts in each of fiscal years 1996 through 2002. (At present, both the Senate and House versions of the VA, HUD, and Independent Agencies appropriations bill authorize radiological fees to be collected for fiscal year 1996. If the appropriations bill is enacted prior to the passage of the reconciliation bill, then this provision would produce no savings in fiscal year 1996.) Table 3 summarizes the budgetary effects of section 10004.

TABLE 3.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON FEMA RADIOLOGICAL FEES

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Spending under current law:								
Estimated budget authority	−12	.....	.....	.....	.....	.....	.....	.....
Estimated outlays	−12	.....	.....	.....	.....	.....	.....	.....
Proposed changes [1]:								
Estimated budget authority	.....	−12	−12	−12	−12	−12	−12	−12
Estimated outlays	.....	−12	−12	−12	−12	−12	−12	−12
Spending under proposal:								
Estimated budget authority	−12	−12	−12	−12	−12	−12	−12	−12
Estimated outlays	−12	−12	−12	−12	−12	−12	−12	−12

[1] The table entries reflect changes to current law; if the VA–HUD appropriations bill is enacted before this provision and extends the collection of the $12 million of fees for radiological emergency preparedness in 1996, this provision would not produce any savings in 1996.

Second, section 10401 would extend, through fiscal year 2002, the increase in vessel tonnage duties that was enacted (and subsequently extended) in two earlier reconciliation acts. These earlier acts increased per-ton duties from $0.02 to $0.09 (up to a maximum of $0.45 per ton annually) on vessels entering the United States from Western Hemisphere foreign ports and from $0.06 to $0.27 (up to a maximum annual duty of $1.35 per ton) on those arriving from other foreign ports. As specified in the earlier acts, the additional amounts collected would be deposited into the general fund as offsetting receipts. Based on current levels of shipping traffic at U.S. ports, CBO estimates that the enactment of this section would increase offsetting receipts by $49 million in each of fiscal years 1999 through 2002. These estimates are summarized in table 4.

TABLE 4.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON VESSEL TONNAGE DUTIES

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Spending under current law:								
Estimated budget authority	−49	−49	−49	−49	.....	.....	.....	.....
Estimated outlays −49	−49	−49	−49	−49	.....	.....	.....	
Proposed changes:								
Estimated budget authority	.....	.....	.....	.....	−49	−49	−49	−49
Estimated outlays	.....	.....	.....	.....	−49	−49	−49	−49
Spending under proposal:								
Estimated budget authority	−49	−49	−49	−49	−49	−49	−49	−49
Estimated outlays	−49	−49	−49	−49	−49	−49	−49	−49

Ocean shipping reform.—Subtitle B would provide for a phased deregulation of the ocean shipping industry, including the repeal of tariff filing requirements, reduced Federal oversight of contracting activities, and termination of many of the regulatory functions carried out by the Federal Maritime Commission [FMC] under the Shipping Act of 1984. In addition, section 10241 would require the Office of Management and Budget, in consultation with the Department of Transportation [DOT] to develop and implement a plan for eliminating the Federal Maritime Commission [FMC] over the next 2 years. Any FMC functions that would still need to be performed once the industry is deregulated would be transferred to DOT. The bill would authorize the appropriation of such sums as are necessary for these purposes.

Assuming appropriations of the necessary sums, CBO estimates that the administration would spend about $1 million in 1996 and a total of about $5 million over the following 2 years to implement this legislation. In 1996, the additional funds would be needed for plan development and costs associated with transferring FMC functions and employees (about 20 positions) to DOT. In 1997, most of the additional funds would be used for severance payments and other employee termination costs.

Midewin National Tallgrass Prairie.—Subtitle C, which would provide for the disposal of land and other Federal property at the Joliet Army Ammunition Plant [Arsenal] and the establishment of the Midewin National Tallgrass Prairie, would increase Federal offsetting receipts from asset sales in fiscal years 1996 and 1997 and result in other small changes in direct spending authority beginning in 1996. Assuming appropriation of the authorized amounts, CBO estimates that implementing this subtitle would increase discretionary spending in each year over the 1996–2002 period as well. Table 5 summarizes the estimated budgetary effects of subtitle C.

TABLE 5.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON THE MIDEWIN NATIONAL TALLGRASS PRAIRIE

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
RECEIPTS FROM ASSET SALES [1]							
Estimated budget authority	−2	−2	0	0	0	0	0
Estimated outlays	−2	−2	0	0	0	0	0

TABLE 5.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON THE MIDEWIN NATIONAL TALLGRASS PRAIRIE—Continued

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CHANGES IN OFFSETTING RECEIPTS AND DIRECT SPENDING							
Offsetting receipts:							
Estimated budget authority	0	0	−2	−3	−3	−3	−3
Estimated outlays	0	0	−2	−3	−3	−3	−3
Direct spending:							
Estimated budget authority	−1	−1	(2)	(2)	(2)	(2)	(2)
Estimated outlays	−1	−1	(2)	(2)	(2)	(2)	(2)
Net spending:							
Estimated budget authority	−1	−1	−2	−3	−3	−3	−3
Estimated outlays	−1	−1	−2	−3	−3	−3	−3
ADDITIONAL SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Estimated authorization level	4	18	2	4	4	5	6
Estimated outlays	2	5	6	9	9	5	6

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.
[2] Less than $500,000.

Under section 10312, about 16,000 acres of the Joliet arsenal would be transferred to the Department of Agriculture during fiscal year 1996. (An additional 3,000 acres would be transferred once ongoing environmental cleanup of the arsenal has been completed by the Army.) At that time, the U.S. Forest Service would establish the site as the Midewin National Tallgrass Prairie [MNP], a unit of the National Forest System. Chapter 3 of this subtitle would direct the Secretary of the Army to transfer (without reimbursement) other arsenal lands to various Government agencies, including (1) about 982 acres to the U.S. Department of Veterans Affairs for a national cemetery, (2) about 455 acres to Will County, IL, for a landfill, and (3) about 3,000 acres to the State of Illinois for economic development purposes.

Section 10315, which specifies management requirements for the MNP, would affect the level of offsetting receipts and direct spending. This section would increase receipts by authorizing the Forest Service to (1) sell facilities and other surplus arsenal property and (2) charge entrance, occupancy, and other user fees at the new unit. Amounts collected from asset sales and new receipts would be deposited into a new special fund, which would be available (subject to appropriation) for development and administration of the MNP. Based on information provided by the Forest Service, CBO estimates that the agency would sell arsenal improvements such as railroad equipment soon after it receives the bulk of the arsenal property in 1996. Such asset sales would increase offsetting receipts by about $2 million in each of fiscal years 1996 and 1997. In addition, CBO expects that the Forest Service would begin charging entrance and other recreational fees within 3 or 4 years of establishing the MNP. We estimate that such fees would generate additional offsetting receipts of about $2 million in fiscal year 1998 and about $3 million annually thereafter. Mandatory payments to State and county governments would also increase, but by less than $1 million annually, beginning in 1998.

Section 10315 also would direct the Forest Service to convert any existing agricultural leases on the transferred lands to new special-

use authorizations. Proceeds from these agreements, net of additional payments to State and local governments would be deposited into a special fund, from which they would be available for appropriation to the agency. Based on information provided by the Forest Service and the Army, the level of agricultural-use receipts earned on arsenal property (about $1.1 million annually) would remain unchanged. However, direct spending authority and outlays associated with such receipts would be reduced by about $0.8 million each year as a result of the new treatment of such fees. (Currently, 100 percent of such fees are available to the Army without appropriations. Section 10315 would reduce the portion treated as mandatory spending to 25 percent—the amount shared with State and local governments.)

In aggregate, asset sales, new fees, and other changes to direct spending made by this subtitle would increase net offsetting receipts by about $3 million in fiscal year 1996 and by $20 million over the 7-year period.

Subtitle C would also affect discretionary spending in each year, assuming appropriation of the necessary amounts. Section 10315 would require that receipts earned at the MNP be deposited into special funds, from which they could be appropriated for prairie restoration, construction, and other on-site activities. CBO estimates that discretionary outlays for the MNP would total $2 million in fiscal year 1996 and $22 million for the 1996–2002 period.

The Department of Veterans Affairs [VA] also would incur costs for the national cemetery to be established on land transferred from the arsenal. The VA is using 1995 funds to complete the master plan for the proposed national cemetery in Joliet. According to VA, discretionary outlays would total less than $1 million to begin the design phase of the project in 1996. VA also estimates appropriations would be required to initiate construction in 1997, with additional operation and maintenance costs once completed. Overall, we estimate discretionary outlays for the cemetary would total about $20 million over the 1996–2002 period. Hence, the table shows these amounts as a cost of implementing the bill, which would be subject to appropriation of the necessary funds.

Sale of Governors Island, NY.—Section 10402 would direct the Administrator of the General Services Administration [GSA] to sell at fair market value all Federal land and other property located at Governors Island in New York Harbor. The bill would grant New York City and the State of New York a right of first refusal to purchase all or part of the island. Proceeds from the sale would be deposited in the general fund as miscellaneous receipts. Based on information obtained from local agencies, GSA, and others, CBO estimates that selling the 172-acre island would generate receipts of about $500 million in fiscal year 1999.

At present, Governors Island is administered by the U.S. Coast Guard and operated as a major command center. That agency's current plans call for closure of the facility within the next 2 years. While disposition of the site under existing law is uncertain and could include possible transfers to other Federal agencies, conveyances at no cost to other agencies for public benefit uses, donations to nonprofit groups for homeless shelters, or sale, CBO believes that the property would remain in Federal hands for many years

in the absence of legislation that specifically requires it to be sold. Enacting this section would ensure that the island would be sold rather than given away or retained by the Federal Government. Moreover, the streamlined process allowed by this section would greatly expedite the disposal, permitting the land to be sold shortly after the Coast Guard vacates all facilities and completes restoration activities.

The value of Governors Island cannot be determined precisely in the absence of formal appraisals, which have not yet been conducted. Based on available information, we estimate that sale of this asset would generate about $500 million. However, depending on whether the asset transfer would occur in one transaction or as a combination of partial sales and other unknown factors such as future zoning decisions, CBO estimates that the Government could receive as little as $250 million or as much as $1 billion.

Union Station air rights.—Section 10403 would compel Amtrak to convey the air rights that it owns behind the District of Columbia's Union Station to the Administrator of General Services. The Administrator would then be required to sell these air rights and air rights behind Union Station that the Federal Government owns.

Based on various appraisals and valuations that were carried out between 1989 and 1992, CBO estimates that selling the 16.5 acres of air rights behind Union Station would produce about $40 million in asset sale receipts in fiscal year 1997. (These rights include 5.8 acres currently owned by the Federal Government and 10.7 acres owned by Amtrak.) Even though the bill would require the Administrator of General Services to sell the air rights by the end of fiscal year 1996, CBO does not believe that the sale would occur by then, because the bill requires that the air rights be sold at fair market value. Completing such a sale this fiscal year would be extremely difficult. Factoring in the uncertainties and risks associated with this real estate, CBO does not expect that anyone would make a full bid (of market value) in that short period of time. If potential buyers are to invest about $40 million for 16.5 acres of air rights, such investors would most likely have to have future tenants lined up to get the necessary financing. CBO believes that such planning and the arrangement of financing would take at least a year to complete.

CBO's estimate is lower than earlier appraisals because real estate experts that CBO contacted indicated that current prospects of governmental downsizing combined with the District of Columbia's financial problems have dampened enthusiasm for major purchases of commercial property in the District of Columbia. In fact, some experts believe that air rights would not be sold in the next 7 years. Even though this is a possibility, CBO believes the air rights would be sold after at least a year of analysis and preparation by potential buyers.

This estimate assumes that Amtrak would convey its air rights to the Federal Government so that they can be sold. If Amtrak does not convey the rights, the bill would prohibit Amtrak from obligating any of its Federal grant money after March 1, 1996. CBO believes that this provision would compel Amtrak to convey its rights. However, the Transportation and Infrastructure Committee has

also approved H.R. 1788, the Amtrak Reform and Privatization Act of 1995, which includes a provision that would allow all funds appropriated to Amtrak to be disbursed upon appropriation, rather than as bills come due. If that provision in H.R. 1788 is enacted, outlays for all of Amtrak's Federal funding will already have occurred before March 1, 1996, and hence the threat of losing funding might not affect Amtrak's decision to transfer the air rights in fiscal year 1996. Therefore, enacting H.R. 1788 could eliminate the savings from the sale of Amtrak's portion of Union Station air rights.

Economic Development Commission.—Subsection E would establish an Economic Development Commission [EDC] within the Department of Commerce and authorize the activities of the Appalachian Regional Commission [ARC] for fiscal years 1996 through 2000. The subsection would authorize annual appropriations of $340 million for fiscal years 1996 through 2000 for development programs and, additionally, such sums as necessary through fiscal year 2002 for defense conversion activities. CBO's estimate of amounts needed for defense conversion—$100 million per year—is based on recent appropriations for these activities, adjusted for current base closure and downsizing plans. The bill would also authorize appropriations of $182 million each fiscal year from 1996 through 2000 for ARC activities. In total, CBO estimates that the subsection would authorize $622 million for fiscal year 1996 and $3.3 billion for the 1996–2002 period. Assuming that the authorized amounts are appropriated for each year, and based on the historical spending patterns of these programs, we estimate that outlays would total $22 million in fiscal year 1996 and $2.6 billion over the 1996–2002 period.

This subsection also would establish criminal penalties that are estimated to cause receipts to increase by less than $500,000 each fiscal year. Criminal fines would be deposited in the crime victims fund and would be spent without further appropriation in the following year. Thus, over time, any increase in Federal revenues from criminal penalties would be offset by new direct spending.

The budgetary effects for this subsection are summarized in table 6.

Prohibition on sale of Corps of Engineers projects.—Section 10002 would prohibit the sale of any project or project feature operated by the Corps of Engineers. This provision would conflict with a provision of the reconciliation recommendations ordered reported by the House Resources Committee that would direct the Secretary of Energy to sell all corps facilities associated with the electricity sold by the Southeastern Power Administration. CBO estimates that enactment of both of these provisions would result in no facilities being sold. If such a sale were allowed to occur, CBO estimates it would result in net receipts to the Government of about $924 million over the 1996–2002 period.

TABLE 6.—BUDGETARY IMPACT OF THE RECONCILIATION PROPOSAL ON THE ECONOMIC DEVELOPMENT COMMISSION

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION								
Spending under current law:								
Budget authority [1]	732	.....	.....	.....	.....	.....	.....	.....
Estimated outlays	520	546	441	278	168	49	.....	.....
Proposed changes:								
Estimated authorization level	.....	622	622	622	622	622	100	100
Estimated outlays	.....	22	156	334	462	582	603	489
Spending under proposal:								
Estimated authorization level [1]	732	622	622	622	622	622	100	100
Estimated outlays	520	568	597	611	630	631	603	489
ADDITIONAL REVENUES AND DIRECT SPENDING								
Estimated Revenues	.....	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Direct spending:								
Estimated budget authority	.....	.....	(2)	(2)	(2)	(2)	(2)	(2)
Estimated outlays	.....	.....	(2)	(2)	(2)	(2)	(2)	(2)

[1] The 1995 level is the amount actually appropriated for that year.
[2] Less than $500,000.

Prohibition on charges in corps concessions program.——Section 10001 would prohibit the corps from modifying its existing concessions program, except as permitted under existing law. The provision could conflict with a provision of the reconciliation recommendations ordered reported by the House Committee on Resources that would establish new policies and practices to be used by the corps and other land management agencies; however, we estimate that any conflict would have no significantly budgetary effect.

7. Estimated cost to State and local governments: *Midewin National Tallgrass Prairie.*—The bill provides that if the State of Illinois sells or leases any of the 3,000 acres transferred to it, the State must reimburse the Federal Government for the land's fair market value. Based on information from the Army, we estimate that the current market value could be as high as $3,000 per acre. The Illinois Department of Conservation does not expect to sell any land for at least 10 to 20 years, however, and cannot predict how much land might be reconveyed at that time.

If the bill were enacted, the State of Illinois would receive 25 percent of the receipts from the agricultural leases and user-fee receipts, which would total approximately $5 million over the 1996–2002 period.

The bill provides that Will County, IL, and the State of Illinois pay the costs of any surveys necessary for the transfer of property. According to the Illinois Department of Conservation, the survey costs would be insignificant.

In addition, the transfer of property to the State of Illinois is based on the condition that the Governor establish and maintain a redevelopment authority to oversee the property's economic development activities. The State estimates that these provisions would not result in a budgetary impact since recent Illinois legislation creating the authority did not provide State funding and defined the members as unpaid appointees.

Selling Governors Island.—The bill provides the city and State of New York the right of first refusal in the purchase of Governor's Island, NY. Should either entity, or the two in partnership, choose to acquire the property in whole, it would cost them approximately $500 million.

Economic Development Commission.—Despite termination of the Economic Development Agency, which in recent years has provided around $418 million in grant assistance to States and localities, CBO estimates that States and localities would continue to receive about the same amount in grants through the newly created Economic Development Commission [EDC]. The bill would authorize $340 million per year for EDC, which includes funding for EDC's salaries and expenses. By also authorizing funds for assisting States and localities with defense conversion activities (which CBO estimates would amount to an additional $100 million per year), the bill would provide a level of grant funding close to that provided under current law.

States that chose to participate in the creation of the eight economic development regional commissions would be required to pay 50 percent of the commissions' administrative expenses. Relative to the grant amounts these States would receive, however, CBO does not expect these amounts to be significant.

Appalachian Regional Commission.—The 13 States that currently receive grants from the ARC—primarily in the mid-Atlantic and southeast regions—would continue to receive such assistance, but at a low level ($182 million compared to $282 million under current law). Several programs within the ARC would be repealed, and the cost-sharing arrangements for most other programs would be changed to require State and local governments to pay larger shares of the costs of projects funded by the ARC. The only exception would be for counties designated as distressed, which would pay less than other counties.

9. Estimate comparison: None.

10. Previous CBO estimate: CBO has completed several previous estimates related to the proposed Midewin National Tallgrass Prairie. The earlier versions of this legislation were similar but varied slightly as to whether spending of certain receipts would be subject to appropriations. In our previous estimates, CBO neglected to note that current law requires that 25 percent of receipts from user fees would be paid to the State of Illinois. Thus, direct spending would be about $3 million higher over the 1996–2002 period than we previously estimated.

11. Estimate prepared by: Federal cost estimate: Parking at Federal facilities, John Righter; Governor's Island, ocean shipping, Deborah Reis; Union Station air rights, John Patterson; FEMA fees, economic development, Rachel Robertson; Midewin National Tallgrass Prairie, Victoria Heid; Sale of Corps of Engineers facilities, Kim Cawley.

State and local estimate: Karen McVey and Pepper Santalucia.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee on Transportation and Infrastructure has no specific oversight findings.

OVERSIGHT OF COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The findings and recommendations of the Committee on Government Reform and Oversight are reflected in this report.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, September 29, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR JOHN: Pursuant to the reconciliation directives contained in the conference report on House Concurrent Resolution 67, the budget resolution for fiscal year 1996, I am pleased to transmit the reconciliation recommendations for programs within the jurisdiction of the Committee on Veterans' Affairs. These recommendations were approved by the full Committee on Veterans' Affairs on September 28, 1995, by a vote of 21 to 8. A copy of the legislative language is enclosed.

The budget resolution instructs the Committee on Veterans' Affairs to report changes in laws within its jurisdiction that provide direct spending levels of $19,064,000,000 in fiscal year 1996, $106,116,000,000 for fiscal year 1996 through fiscal year 2000, and $154,860,000,000 for fiscal year 1996 through fiscal year 2002.

The Committee on Veterans' Affairs recommendations include extensions of current laws, a modest increase in the prescription drug copayment schedule, a revision of the standard for liability resulting from medical treatment administered by the Department of Veterans Affairs and other deficit reduction measures. It also includes a very important veterans' health care eligibility reform initiative.

I hope these recommendations will be of assistance to your committee in meeting the budget reconciliation targets.

Sincerely,

BOB STUMP,
Chairman.

Enclosure.

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PURPOSE AND BACKGROUND

SUBTITLE A—EXTENSION OF TEMPORARY AUTHORITIES

Requirement to make copayment

Section 11011 would extend an existing provision of law in section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 [OBRA 1990], Public Law 101–508, (38 U.S.C. 1710 note). Current law provides that all non service-connected veterans who are not otherwise eligible for VA care and who have incomes exceeding the statutory means-test are eligible for health care provided by the Department of Veterans Affairs [VA] only subject to an agreement to make copayments for that care. In OBRA 1990, Congress added to the already existing copayment requirements a per diem of $5 for nursing home care and $10 for hospital care. Congress in OBRA 1990 also eliminated distinctions among nonservice-connected veterans with incomes above the means-test limit, requiring all such veterans to make copayments. The authority to collect these per-diem payments and to obtain copayments from all nonservice-connected veterans with incomes exceeding the means-test level expires on September 30, 1998, and under section 11011 would be extended to September 30, 2002

Section 11011 would also extend a provision from OBRA 1990 and the Omnibus Budget Reconciliation Act of 1993 [OBRA 1993], Public Law 103–66, codified in section 1722A(c) of title 38, United States Code. Current law requires the VA to collect a $2 copayment for each 30-day supply of medication furnished for the outpatient treatment of a nonservice-connected condition of a veteran. Veterans with a service-connected disability rated 50 percent or more, or veterans whose annual income does not exceed the maximum annual rate of pension benefit ($8,037 for veterans without dependent spouse or child) do not make a copayment. This authority expires on September 30, 1998, and under section 11011 would be extended to September 30, 2002.

Medical care cost recovery

Section 11012 would extend a provision from OBRA 1990 and OBRA 1993 codified in section 1729(a)(2)(E) of title 38, United States Code. The Secretary is, under section 1729 of title 38, United States Code, authorized to collect reasonable costs of care furnished to nonservice-connected veterans. In addition, current law authorizes the VA to collect from a health care plan the reasonable cost of medical care furnished before October 1, 1998, to a service-connected veteran for nonservice-connected treatment. This authority applies to care and services furnished before October 1, 1998, and under section 11012 would be extended to care and services furnished before October 1, 2002.

Income verification

Section 11013 would extend a provision from OBRA 1990 and OBRA 1993 codified in section 5317(g) of title 38, United States Code and section 6103(l)(7)(D) of title 26, United States Code. Current law authorizes the Secretary to verify the eligibility of recipients of, or applicants for, VA need-based benefits and "means-test-

ed'' medical care using income data from the Internal Revenue Service [IRS] and Social Security Administration [SSA]. The income data obtained by the VA from the IRS and the SSA is used solely to verify a veteran's or other benefit recipient's continued eligibility. This authority expires on September 30, 1998, and under section 11013 would be extended to September 30, 2002.

Limitation on pension for certain recipients of Medicaid-covered nursing home care

Section 11014 would extend a provision from OBRA 1990 and OBRA 1993 codified in section 5503(f)(7) of title 38, United States Code. The provision limits to $90 a month the maximum amount of VA need-based pension that may be paid to Medicaid-eligible veterans and surviving spouses who have no dependents and who are in nursing homes participating in Medicaid. This section treats such individuals in the same fashion as if the care were being furnished at VA expense. This provision expires on September 30, 1998, and under section 11014 would be extended to September 30, 2002.

Home loan fees

Section 11015 would extend a provision from OBRA 1990 and 1993 codified in section 3729(a) of title 38, United States Code. Current law requires the VA to charge a basic fee to veterans and service members who use the Home Loan Guaranty Program. Veterans receiving or entitled to receive compensation for service-connected disabilities would continue to be exempt from payment of a loan fee. This section requires the following fee schedule as determined by the percentage of the downpayment:

	Percentage
Veterans:	
No down payment	2.00
5 percent but less than 10 percent down payment	1.50
10 percent or more down payment	1.25
National Guardsmen and Reservists:	
No down payment	2.75
5 percent but less than 10 percent down payment	2.25
10 percent or more down payment	2.00
Second or Subsequent Use	3.00

This authority applies to loans closed before October 1, 1998, and under section 11015 would be extended to loans closed before October 1, 2002.

Liquidation sales on guaranteed home loans

Section 11016 would extend a provision from OBRA 1990 and 1993 codified in section 3732(c)(11) of title 38, United States Code. Current law provides the VA with two options when property guaranteed through the VA Home Loan Guaranty Program goes into foreclosure. The VA uses a complex formula to determine whether it is less expensive to the Government to purchase and resell a property securing a VA-guaranteed home loan in default, or simply pay off the VA guaranty. This authority applies to loans closed before October 1, 1998, and under section 11016 would be extended to loans closed before October 1, 2002.

SUBTITLE B—OTHER MATTERS

Revision to prescription drug copayment

Section 11021 would, in conjunction with section 11011, amend section 1722A(a) of title 38, United States Code, to increase the prescription drug copayment from $2 to $3 during fiscal years 1996–2002. Current law requires certain veterans who obtain prescriptions for treatment of any nonservice-connected disability or condition to make a copayment. The requirement does not apply to a veteran with a service-connected disability rated 50 percent or more or to a veteran whose annual income does not exceed the maximum annual rate of pension benefit—$8,037 for veterans without dependent spouse or child.

Section 11021 would also amend section 5302 of title 38, United States Code, to eliminate the Secretary's authority to waive prescription drug copayments or the collection of any indebtedness for failure to make a prescription drug copayment. In 1992, the VA's Office of General Counsel issued an advisory opinion which held that the Secretary has authority to waive a veteran's debt arising from failure to make the prescription drug copayment. In 1994, the VA's Veterans Health Administration [VHA] established procedures for processing requests for debt waivers resulting from failure to make the prescription drug copayment. The Secretary's authority to waive such debts was delegated to facility fiscal officers or their designees.

According to a white paper from the Medical Services Division of the VA's Office of the Budget, "Factors Affecting VHA Medication Copayment Recoveries", the Medical Care Cost Recovery Office "anticipates a scarcity of denied waiver requests." The white paper further states:

> The resources expended in this process by both the medical center and by the Board of Veterans' Appeals do not justify the recovery. The subjective "equity and good conscience" standards afford fiscal officers wide discretion in determining whether the potential recovery amount is worth the cost of an investigation into the merits of the waiver requests. Since the standards provide opportunity for considerable local discretion, equitable treatment of all veteran waiver requests cannot be guaranteed.

The VA's copayment collections have plummeted from $53.1 million in fiscal year 1993 to $26.2 million in fiscal year 1994. Consequently, the committee concludes that the Secretary's waiver authority cannot be applied fairly and is administratively unworkable.

Cost-of-living adjustment for compensation and DIC recipients

Under chapter 11 of title 38, United States Code, the VA pays monthly cash benefits to veterans who have service-connected disabilities. The basic amounts of compensation paid are based on percentage-of-disability ratings, determined in multiples of 10 percentage points and assigned to the veteran. Special monthly rates are payable to totally disabled veterans with certain specific, severe disabilities and combinations of disabilities. Veterans with disabil-

ities rated 30 percent or more also receive additional compensation for spouses, children, and dependent parents.

Under chapter 13 of title 38, United States Code, the VA pays dependency and indemnity compensation [DIC] to survivors of servicemembers or veterans who died on or after January 1, 1957, from a disease or injury incurred or aggravated during active service. In 1992, Public Law 102–568 established in section 1311 of title 38, United States Code, a new flat-rate benefit of $790 per month for most DIC recipients whose spouses died while on active duty or whose deaths resulted from service-connected disabilities on or after January 1, 1993. These are commonly known as new-law DIC recipients. The flat rate is currently $790. The law specifically provides, however, that for deaths occurring prior to January 1, 1993, the amount of DIC payable to a surviving spouse will be the greater of the amount she or he was entitled to under the old rate or the new rate structure. Those receiving an amount above the flat rate are commonly referred to as old-law recipients.

COLA round down

Section 11022 would amend chapter 11 and chapter 13 of title 38, United States Code, to specify the computation method of cost-of-living adjustments [COLA] in disability compensation and DIC rates. On December 1, 1995, the Secretary would compute any increase in a disability compensation and a DIC adjustment that is otherwise provided by law to be effective during fiscal year 1996. The computation for adjustments in disability compensation and DIC rates would provide for the same percentage increase as provided under such law, but, if the amount was not a whole dollar amount, it would be rounded down to the next lower dollar amount, rather than to the nearest whole dollar amount as has been the practice in previous years. According to the Congressional Research Service, a number of Federal programs round down COLA's to the next lower dollar, including military retirement, aid for dependent children, supplemental security income, Social Security, railroad retirement, civil service retirement and food stamps.

Section 11022 would also amend chapter 11 of title 38, United States Code, by adding a new section to provide that the computation of disability compensation COLA's for fiscal years 1997–2002 would be adjusted by a uniform percentage which is no more than the percentage equal to the Social Security increase for that fiscal year. All increased monthly rates and limitations other than those equal to a whole dollar amount would be rounded down to the next lower whole dollar amount. Section 11022 would also amend chapter 13 of title 38, United States Code, by adding a new section which would provide for the same manner of computation of DIC COLA's as the disability compensation COLA for fiscal years 1997–2002.

Flat rate COLA for DIC

The legislative intent in adopting the flat rate DIC benefit was to achieve a more equitable benefits schedule. In keeping with the objective of equity, the committee believes it is highly desirable to achieve rate equalization in the long term between old and new-law DIC recipients. The committee is particularly concerned that

COLA's be structured in such a way that the objective of equity will be met for all DIC recipients. For example, in the case of the old-law survivor of an enlisted service member who was in the pay grade of E–9, if the COLA percentage given to this old-law recipient is calculated on the old-law rate of $899, the disparity would increase between this old-law recipient and an otherwise identical new-law recipient.

The committee recommends an increase calculated by multiplying the new-law rate by the full percentage allowed.

Liability resulting from treatment administered by the Department of Veterans Affairs

Section 11023 would amend section 1151 of title 38, United States Code, to revise the standard for liability for injuries resulting from medical treatment or vocational rehabilitation provided by the VA. Section 1151 authorizes compensation when veterans suffer additional disability or death from an injury or aggravation of an injury resulting from examination, hospitalization, medical or surgical treatment, or the pursuit of vocational rehabilitation provided pursuant to laws administered by the VA. These benefits are awarded as if the additional disability or death were service-connected.

The initial predecessor of section 1151 was enacted in 1924 as part of the World War Veterans' Act. Since 1926, when the VA adopted its first regulation pursuant to the World War Veterans' Act, the VA's interpretation has been that compensation was authorized only in cases where the disability or death was proximately caused by the VA's treatment as a result of negligence, lack of skill or other fault on the part of the VA. The VA has also granted compensation upon a showing of "accident" and has defined an "accident" as an occurrence which is not reasonably foreseeable. If the care was properly provided, the VA did not authorize compensation for contemplated or foreseeable risks or complications of medical care.

In 1991, the U.S. Court of Veterans Appeals decision in the case of *Gardner* v. *Derwinski,* 1 Vet. App. 584, 589 (1991), invalidated 38 C.F.R. section 3.358(c)(3), a part of the regulatory framework the VA had used in adjudicating claims under section 1151. In 1993, the U.S. Court of Appeals for the Federal Circuit affirmed the Court of Veterans Appeals decision.

On December 12, 1994, the U.S. Supreme Court affirmed in *Gardner* v. *Brown,* 115 S. Ct. 552, 557 (1994), the Federal Circuit decision. The decision requires the VA to pay benefits under section 1151, not only for injuries resulting from improper medical treatment or accident, but also resulting from properly prescribed, consented to and competently administered medical treatment. The only exception allowed by the decision is "for the necessary consequences of treatment to which [the veteran] consented."

Consequently, compensation is now payable for any additional disability or death attributable to proper VA treatment, so long as it is not a necessary consequence—a certainty. This is so regardless of the risks inherent in the procedures employed or the health perils faced in the absence of treatment.

Section 11023 would establish a new standard for the award of compensation under chapter 11 and for dependency and indemnity compensation under chapter 13 of title 38, United States Code, for a qualifying additional disability or death of a veteran in the same manner as if such disability or death were service-connected. In order to make the VA's standard of liability more closely parallel to that of the private sector health care providers, the new standard would require that a qualifying additional disability or death be caused by VA health care and be a proximate result of negligence on the part of the VA in furnishing health care, or be incurred as a proximate result of training and rehabilitation service provided under 31 of title 38, United States Code. However, a qualifying additional disability or death caused by an event which was not reasonably foreseeable would also form the basis for VA liability.

Enhanced loan asset sale authority

Section 11024 would extend an existing provision of law codified in section 3720(h)(2) of title 38, United States Code. Current law authorizes the Secretary to guarantee the real estate mortgage investment conduits [REMIC's] used to market vendee loans. This provision would guarantee timely payment of principal and interest on certificates or other securities issued by the REMIC's. VA home loan programs are direct, mandatory accounts. This program has no direct or indirect effect on veterans or their ability to secure home loans.

Extending the loan asset sale program eliminates the need for the VA to provide servicing and converts long-term receivables into cash assets when the VA sells the loans. Cash reserves and other REMIC credit structures make the likelihood of payment delays extremely remote, thereby limiting the Government's risk in the guarantee of payment. The assurance of prompt payment reduces the interest the VA must pay to investors and increases sales receipts when the VA offers the securities for sale. Other sales-related costs such as those associated with Securities and Exchange Commission registration and credit rating would also be eliminated, resulting in an increase in potential savings. Sales volume for the VA's loan asset sales remains consistent at approximately $440 million per sale, with the VA typically holding sales three times per year.

This authority expires on December 31, 1995, and under section 11024 would be extended to September 30, 1996.

Withholding of payments and benefits

Section 11025 would amend section 3726 of title 38, United States Code, to enable the VA to refer certain loan guaranty debts to the IRS for offset of income tax refunds and refer these debts for salary offset if the debtor is identified as a Federal employee. Currently, Federal agencies, other than the VA, are prohibited by law from withholding or offsetting payments to veterans in order to satisfy loan guaranty debts unless the debtor consents in writing or a court has determined the debtor is liable to the VA for the debt. With this provision, the VA would be able to collect home loan guaranty debts as it currently does for all debts arising under

other VA programs. Section 11025 would also ensure that the VA provides veterans with notice and opportunity to seek a waiver or challenge the validity of the debt before collection.

SUBTITLE C—HEALTH CARE ELIGIBILITY REFORM

Historical perspective

The veterans medical system was first developed to provide needed care to veterans injured or ill as a result of service during wartime. At the close of World War II, the Federal Government undertook the task of increasing the number of Veterans' Administration [VA] medical facilities to meet the expected demand for health care for veterans returning with injuries or illnesses sustained during hostilities. The primary focus of the buildup was the immediate medical needs of returning combatants for acute care, and then to address the longer term rehabilitation needs of more seriously injured veterans. Within a few years after the cessation of hostilities, the initial demand for acute care services for service-connected conditions diminished and the VA initiated what was later to become its specialized services mission. Services such as spinal cord injury care, blind rehabilitation, and prosthetics were very limited and almost nonexistent in the private medical market of the late 1940's.

The VA system has evolved and expanded since World War II. Congress has enlarged the scope of the Department's health care mission. Through the years it has enacted legislation requiring the establishment of new programs and services. Through numerous laws, some narrowly focused, others more comprehensive, Congress has also extended to additional categories of veterans eligibility for the many levels of care the VA now provides. No longer a health-care system targeted just to the service-connected veteran, the VA has become as well a safety net for the many lower-income veterans who have come to depend upon it. Legislative proposals to ensure comprehensive care of all veterans, or even comprehensive care of the service-connected and lower income veterans, have been unsuccessful. Budget considerations have been a frequent brake on such legislative initiatives. The resulting body of VA health care eligibility law is one which many view as more a patchwork than a rational, comprehensive system.

The long-standing call for eligibility reform reflects frustration with provisions of current law which are widely regarded as complex, confusing, and in many respects inconsistent with sound medical practice.

Hospital care and medical services

Although the committee has for several years been urged to enact eligibility reform legislation, consensus on what should constitute such reform has been long in coming.

Until this year, for example, the VA itself had failed to propose legislation, other than as part of the national health care proposal in the 103d Congress, to revise a statutory health care eligibility system its officials long ago acknowledged needed overhauling. In finally proposing specific draft legislation in a transmittal to the Speaker of the House on September 12, 1995, the Secretary of Vet-

erans Affairs identified the objectives a revised eligibility system should achieve:

> First, the eligibility system should be one that both the persons seeking care and those providing the care are able to understand.
>
> Second, the eligibility system should ensure that the VA is able to furnish patients the most appropriate care and treatment that is medically needed, cost effectively and in the most appropriate setting.
>
> Third, veterans should retain eligibility for those benefits they are now eligible to receive.
>
> Fourth, VA management should gain the flexibility needed to manage the system effectively.
>
> Fifth, the proposal should be budget neutral.
>
> Sixth, the proposal should not create any new and unnecessary bureaucracy.

Subtitle C of title XI, the Veterans Health Care Eligibility Reform Act of 1995, which would revise provisions of chapter 17 of title 38 governing eligibility for VA hospital and outpatient care, would achieve in full the objectives set forth by the Secretary. It would substitute a single uniform eligibility standard for the complex array of different standards governing access to VA hospital and outpatient care. While the new standard is a simple one, more importantly it employs a clinically appropriate "need for care" test, thereby insuring that medical judgment rather than legal criteria will determine when care will be provided and the level at which that care will be furnished.

Section 11031 would strike the complex provisions of law governing eligibility for outpatient care. Those provisions, set forth in section 1712(a) of title 38, United States Code, all for the VA to apply no less than four different legal tests to distinct veteran classifications. Specifically, under section 1712(a), the VA "shall furnish" comprehensive treatment to certain service-connected veterans, "may furnish" such broad treatment to certain other classes of veterans, and either "shall" or "may" furnish treatment of more limited scope—to obviate the need of hospital admission or to complete treatment begun during hospitalization—to still other groups of veterans. In contrast, in the case of each of these groups—the service-connected, former prisoners-of-war, etc.—the VA is required to provide needed hospital care for any health problem under section 1710 of title 38.

Section 11031 would amend existing law, as it applies to a core beneficiary group—the service-connected disabled, low-income veterans, former prisoners of war, and World War I veterans—to eliminate the distinctions applicable to eligibility for both hospital and outpatient care. As amended, the VA would be authorized to provide such veterans any needed hospital care and outpatient medical services, to include preventive health services and home health care. These changes would expand the array of services the VA could provide many of these beneficiaries, while eliminating statutory barriers to providing care in the most economical manner.

As amended, section 1710(a)(1) qualifies the Secretary's obligation to provide care as follows: "to the extent and in the amount provided in advance in appropriation acts for these purposes". Such language is intended to clarify that these services continue to depend upon discretionary appropriations; the act does not require a certain level of appropriations. The qualifying phrase, quoted above, is identical to the language the Secretary of Veterans Affairs has employed in the Department's draft bill.

While expanding the scope of services the VA is authorized to provide to many of its core category A veterans—those described in section 1710(a)(1) of title 38—substitute C would not reduce any veterans' eligibility for health care benefits. The measure expressly addresses the status of a service-connected veteran with a service-connected disability which is not compensable in degree. In the case where such a veteran is not otherwise afforded eligibility for hospital and medical services under section 1710(a)(1), as amended in subtitle C, new section 1706(d) would provide that such veteran would continue to be eligible for health-care benefits as had been provided prior to the enactment of the Veterans Reconciliation Act of 1995. Other veterans—both higher-income individuals and veterans with special eligibility based on exposure to toxic substances—would continue to be eligible for services under existing law. In that regard, the measure assumes Senate adoption of House-passed H.R. 1565, addressing special eligibility relating to exposure to herbicides or ionizing radiation. Section 11032 would extend for 3 years the VA's expiring authority to provide health care to certain veterans of service in the Persian Gulf.

Prosthetics

Section 11033 would remedy an oft-cited anomaly in VA health care eligibility law, provisions which bar many veterans who rely on VA health care from receiving needed prosthetics. The measure would eliminate a restriction in current law which effectively prohibits the VA from furnishing such needed devices to most nonservice-connected veterans unless the VA hospitalizes the individual. Under the amendment, however, VA prosthetics may be furnished only as part of ongoing VA care, regardless of the level at which that care is furnished. This is to clarify that the committee does not intend, for example, that the VA provide costly prosthetics to nonservice-connected veterans who do not otherwise rely on VA care and simply view the VA as a means to obtain services not covered by their health insurer.

Management of care

The act would meet the Secretary's objective of gaining needed flexibility to manage VA health care effectively. For example, its provisions would both improve the VA's ability to plan and budget for meeting its medical care mission, and foster flexibility in delivering needed services.

The act not only enables the VA to plan for treating patients in a comprehensive manner—rather than episodically responding to acute problems, but authorizes the VA to establish a system or systems of patient enrollment and thereby improve substantially the management of care-delivery. Moreover, the Act frees administra-

tors from rigid rules on contracting for veterans' treatment. In place of a body of law limiting who could be provided treatment from a private physician and for what conditions, the act would vest the VA with authority to contract for hospital care and medical services on behalf of any enrollee described in new section 1710(a)(1) when it is less costly than providing needed care and services in VA facilities. Further, the Act would lift restrictions which bar VA facilities from entering into arrangements with other institutions for shared use of VA resources, subject to reimbursement. Finally, the Act explicitly recognizes that the extent of the Secretary's obligations under law are limited by the funds made available in advance by appropriations acts.

Enrollment. The act provides the VA an important tool, the authority to design and manage access to care through a system of patient enrollment. The authority to enroll patients is a logical extension of the longstanding statutory requirement that outpatient care be provided in accordance with specified priorities.

While an enrollment mechanism has not previously been specifically authorized in law, the VA has clearly embraced that concept in its recent planning and begun to employ it. A directive issued by the Office of the Under Secretary for Health in October 1994, "Guidance for the Implementation of Primary Care in Veterans Health Administration [VHA]", for example, includes as among facilities' responsibilities in instituting a primary care program their responsibility to "define the patient population * * * to be treated" and to ensure that "every patient *enrolled* in primary care must have a primary care provider" (emphasis added). As currently instituted at many VA facilities, an enrollment system does not involve a contractual relationship between the VA and the enrollee or otherwise guarantee the enrollee that the VA will necessarily deliver all needed care. Enrollment, however, can help the VA plan more effectively, so that facilities can better calculate and dedicate the resources needed to provide the care its enrollees require.

The act directs the Secretary, in providing for the care of core veterans (described in new section 1710(a)(1) of title 38), to establish and operate a system of annual patient enrollment, and requires that veterans be enrolled in a manner giving relative degrees of preference in accordance with specified priorities. At the same time, it vests discretion in the Secretary to determine the manner in which such enrollment—or registration—system shall operate. For example, VA may establish a system which simply registers patients throughout all or part of a fiscal year, or may employ a time-limited registration period. Significantly, the act permits the Secretary to set priorities within the specified priority classifications established in the act. The Secretary could, therefore, establish a policy which, for example, within any priority classification, gives veterans who have previously been enrolled as VA patients priority over new applicants. However, the committee expects any enrollment system to be designed and administered to assure that any veteran with a service-connected condition would receive priority treatment for that condition whether or not that veteran had enrolled for VA care.

The relative priority classifications in new section 1705, which, for example, assign highest priority to veterans with service-con-

nected disabilities rated 30 percent or greater, is derived substantially from the prioritization requirement in current law at section 1712(i) of title 38, United States Code. In refining that prioritization requirement, the measure would make several noteworthy changes. The measure, for one, would elevate to a second tier the priority of former prisoners of war, who under current law occupy a lower (third) priority tier. Second, it would create a new category of priority for those otherwise eligible veterans under new section 1710(a) who are catastrophically disabled, such as veterans with spinal cord injury. Such veterans would be included within a third tier of priority together with other profoundly disabled veterans who receive increased pension based on a need of regular aid and attendance or permanent housebound status.

Contracting for services.—In providing a new statutory framework to assist the VA in meeting the Nation's commitment to provide health care services to its most deserving veterans, the act for the first time lifts rigid limits on which patients can receive VA-sponsored care through contract arrangements with community providers. In the context of the broad policies of the act, such limits on contracting are unnecessary constraints. They serve at best as a crude means of limiting expenditures; in their place, the act would authorize, but not require, the VA to contract for hospital care and medical services when VA facilities cannot furnish such care and services economically. Such a provision is also intended to encourage VA facilities to assess the relative costs of in-house and contractor-provided services, with an eye to contracting where significant savings can be achieved at comparable or better quality of service.

A companion provision vests the Secretary with broad discretion to make such rules and regulations regarding acquisition procedures and policies as deemed necessary to provide needed care and services. This provision is intended to enable the Secretary to tailor contracting policies and process to the unique needs of cost-effective care delivery, and to free contracting officials from cumbersome procedures which would impede that objective.

While generally easing restrictions in current law, the act does limit the Secretary in some important respects. For one, it provides that in designing an enrollment system and in providing care, the VA may not enroll or otherwise attempt to treat so many patients as to result either in diminishing the quality of care to an unacceptable level or unreasonably delaying the timeliness of the VA's care-delivery.

Specialized services.—The act would further limit the VA's discretion as it relates to the Department's important mission of providing for the specialized treatment and rehabilitative needs of disabled veterans. While provisions of subtitle C otherwise vest considerable discretion in the Secretary, considerations unique to the VA's specialized treatment programs require a far more guarded response, in the committee's view.

The provision of specialized services, identified generally in the act as the VA's service capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans—including veterans with spinal cord dysfunction, blindness, amputations, and mental illness—constitutes a vital core of the VA's health care mis-

sion. The development and refinement over decades of specialized treatment and rehabilitation programs to serve these disabled populations has greatly enhanced the veterans' lives. The scope and quality of those programs is not matched in the private sector, where, because of the great expense associated with such care, there has generally been little incentive to tailor programs for these chronic conditions.

Budgetary pressures and an ongoing reorganization within the Veterans' Health Administration raise concern on the committee's part that the VA's costly specialized programs may be particularly vulnerable and disproportionately subject to budget-cutting. Earlier this year, a hearing before the Subcommittee on Hospitals and Health Care on the proposed VHA reorganization produced testimony on this issue. In the committee's view, neither the Department's testimony nor subsequent actions have allayed the widespread concern that a newly decentralized organization, under budget pressures and focused heavily on instituting new primary care programs, will not respond to these pressure at the expense of the very programs on which the Department's most vulnerable beneficiaries depend.

To avoid erosion of its specialized capacities, the act would require the Secretary to ensure that the Department's system-wide capacity to provide for the needs of this disabled population will be maintained. In setting this requirement, the committee does not seek to impede or discourage the development of new or refined treatment modes that may change the mix of VA services, or in any way to discourage a shift of care from inpatient to outpatient setting, where appropriate, but only to ensure that the resource levels devoted to these services remain at least stable.

Given the importance of permitting programs and treatment methods to evolve, the committee has not sought to identify or catalog specific programs in either the act or in this discussion. Its intent is to ensure that specialized treatment and rehabilitation continue to be available to serve unique populations who suffer from the kind of profound, costly-to-treat disabilities cited in the act. The committee notes that the Department has from time to time employed terms like "special programs" which are more inclusive than the act's provision and may employ the term "special" for reasons unrelated to the profound nature of a disability. Such special programs are not within the ambit of this provision.

Impact of the Act.—Although the act revises substantially the body of law governing VA health-care eligibility, its impact will be less far-reaching in practice than appears on its face. While the committee believes the revision of law proposed in the act is necessary and overdue, it appears that many VA medical facilities have themselves instituted changes in delivery practice that largely mirror the changes proposed in the act. As such, at many VA institutions, but certainly not all, the act may represent codification of VA practice more than a mandate for revolutionary change.

To test this thesis, the committee's ranking member recently requested that the Veterans Health Administration conduct a survey of VA medical centers. The survey, conducted in early September 1995, was intended to explore the possible impact of eligibility reform legislation. The survey sought to document the extent to

which the VA facilities were already providing primary care to patients, and to obtain some current measure of demand for care which might be sparked by enactment of reform legislation.

In that regard, the committee took note of analyses prepared earlier this year by Congressional Budget Office [CBO] staff. For example, in attempting to estimate the costs associated with a legislative initiative which would have expanded the scope of outpatient care for service-connected veterans rated 30 percent and 40 percent disabled, CBO analysts, in attempting to derive an estimate of minimum costs, "assumed that the number of veterans refused outpatient care equals the number turned down for inpatient care." The analysts cited data derived from the 1992 Survey of Veterans to the effect that "about 61,000 veterans were denied inpatient care who should have received care" and concluded that number would rise to almost 70,000 in 1996. The Congressional Budget Office continues to cite the 1992 survey data as a possible basis on which to project additional costs stemming from an extension of outpatient care.

The survey posed the following questions:

1.a. Has your facility instituted a primary care program that is, a clinic which includes at least intake and initial assessment, treatment/management of acute conditions, patient education/health promotion, continuity of care, and access to other components of VA-provided or sponsored health care)?

b. If so, please estimate the percentage of total facility unique patients enrolled in primary care.

c. Please identify any classes of category A veterans who are not currently enrolled or being enrolled in a primary care program.

2.a. During the period of fiscal year 1994, did your facility find it necessary because of limited resources to turn away—or provide only one-time, limited treatment to—any category A veterans who needed hospital or outpatient care?

b. If so, please estimate by needed level of care the numbers turned away.

The recent VA survey indicates that with respect to needed hospital care, only 6 of 162 facilities either turned away category A veterans or provided only one-time, limited treatment to such individuals. With respect to outpatient treatment, only 22 facilities denied treatment or provided only one-time treatment, according to the survey.

As the General Accounting Office noted in recent testimony, only veterans with service-connected disabilities rated at 50 percent or more—about 450,000 veterans—are entitled to comprehensive outpatient treatment. (Another GAO report, profiling veterans who used VA medical centers in 1991, stated that of veterans receiving VA care in 1991 only 300,000 were 50 percent service-connected disabled.) GAO noted that "eligibility rules impede the provision of efficient health care to other veterans in that they may not be eligible for preventive services or treatment of medical conditions until such conditions, if left untreated, warrant hospital care or specialized outpatient treatment."

The survey showed, however, that despite the limited numbers entitled to routine outpatient treatment, VA facilities are providing

routine care to substantial percentages of their patients. For example, of the 162 facilities responding to the survey, 62 reported that 60 percent or more of their patients had been enrolled in primary care programs; 25 facilities reported that 80 percent or more of their patients were enrolled. In most instances, these programs are relatively new, and were established pursuant to the above-cited October 1994 VA directive, "Guidance for the Implementation of Primary Care in Veterans Health Administration." In expressing a "need to implement primary care throughout VHA," the directive cited a 1993 survey which "revealed that VA does not currently provide primary care to a large number of veterans." The new policy pronouncement expressly directed that "[t]he VHA will implement the Primary Care Program to provide primary care to all eligible veterans requiring coordinated care." The policy did not define the term "eligible veterans," but in identifying the need to implement primary care, cited "the development of eligibility reform proposals, the managed care task force report, and * * * the VA National health care reform report 'Meeting the Challenge of Health Care Reform.'"

In essence, a health care system often criticized in prior years for its failure to provide routine outpatient care is undergoing a much-needed reform and increasingly delivering care at the least costly level. Those changes in practice have anticipated changes in law. Subtitle C would bring the law into conformity with changes already underway at many facilities. Those changes are clearly needed, and enactment of subtitle C would help accelerate further needed change.

The recent survey underscores how little reliance can be placed in the Congressional Budget Office [CBO] projection of the costs of enacting subtitle C. CBO projects that "the net cost of extending outpatient care to all core veterans"—itself not an accurate characterization of new subsection 1710(a)(1)—"would be $404 million in 1996" if the number of veterans refused outpatient care equals the number turned down for inpatient care. Even if the CBO's wholly unreliable projection of the number of new outpatients were accurate, its cost projection fails to take into account substantial savings likely to arise from the anticipated closures in hospital beds and increased shift to outpatient treatment which the act encourages.

In this instance, the committee places greater confidence in the VA's own cost assessment, which served as the underpinning for its own proposed eligibility reform. That analysis projected that over a 2-year period some 20 percent of the VA's inpatient workload would be shifted to outpatient care, resulting in inpatient cost-avoidance of $761 million, with a total increase in outpatient care of $533 million, with additional reductions of contract care and travel costs totaling $39 million. The VA projected that the 2-year savings of $268 million would be available for expanding access to primary care and for new outpatient workload, with the result that "VA expects this [VA] proposal to be budget neutral."

Improved efficiency in health care resource management

Title II of Public Law 102–585 authorized an expansion of the cooperative arrangements between the VA and DOD facilities insti-

tuted under Public Law 97–174. Public Law 102–585 authorized the Departments to enter into agreements under which VA facilities could provide medical services to beneficiaries of DOD's CHAMPUS Program. Under this new authority, the VA has begun to provide care to dependents of active-duty members and retirees. Section 11035 would repeal section 204 of Public Law 102–585, under which this expanded VA–DOD sharing authority would have expired.

Authority to bill health-plan contracts.—Section 11035 of the act would also clarify VA's authority to recover or collect from the insurance plans, including so-called CHAMPUS supplemental plans, of CHAMPUS beneficiaries cared for by the VA to the same extent as DOD recovers for care rendered to these beneficiaries in its facilities. This section would also direct that all funds received by the VA from the insurance plans of CHAMPUS beneficiaries be credited to the VA facility that furnished the care.

Expanded resource sharing

While revising VA law governing health care eligibility will help the VA achieve greater efficiencies inherent in shifting more care from costly hospital beds to outpatient clinics, the act would also help the VA achieve greater economies through improved resource utilization.

Under existing law, the VA may, subject to reimbursement, enter into agreements with specified health care entities for the mutual use or exchange of use of specialized medical resources, a narrowly defined term. Among the changes proposed by the act, section 11036 would authorize the VA facilities to enter into such sharing agreements not only with health care facilities but with health insurers or any other entity or individual, and would expand, to include support services, the scope of resources which might be sold or purchased under such a contract to any health care resource. The committee contemplates that the Department would broadly construe this new authority.

The amendments in section 11036, developed with an eye to both the difficult budget environment and the dynamic marketplace within which the VA health care facilities are operating, reflect a belief that these facilities need far greater flexibility than existing law affords them to work out contractual arrangements with other providers, institutions, and entities to share health care resources. Both veterans organizations and the Department have cited the importance such expanded VA sharing authority holds to achieve efficiencies as well as new revenues.

Personnel furnishing shared resources

The provisions of section 11037 are companion provisions to sections 11035 and 11036, and are intended to overcome disincentives in existing law to initiating or maintaining arrangements to share resources, and, thus, to achieve needed efficiencies. Under current law, VA facilities have operated under employment ceilings conforming to section 712 of title 38, United States Code. Such ceilings have created a dilemma for many medical center directors, because they have often forced a choice between dedicating staff solely to internal service-delivery, regardless of the level of efficiency of such

service, or to providing as well some level of service-delivery to other entities under the auspices of efficiency-driven sharing agreements. Faced with such a choice, many directors have opted not to embark on any new sharing agreements or questioned the merits of maintaining those in place. This tension can easily lead to facilities to choose to operate inefficiently simply to avoid the perverse impact an employment ceiling can have. Section 11037 would remedy this problem by exempting from the applicable personnel ceiling those staff involved in providing services under sharing agreements.

SECTION-BY-SECTION

Section 11001 would provide that this title may be cited as the "Veterans Reconciliation Act of 1995."

Section 11011(a) would amend section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C 1710 note) to extend until September 30, 2002:

(1) provisions of the act which eliminate, for purposes of priority to VA care and associated copayment obligations, distinctions among veterans whose incomes exceed the Category A income threshold, and

(2) the $5- and $10-per day copayment obligations associated with VA provision of VA nursing home and hospital care, respectively, to such higher-income veterans.

Section 11011(b) would amend section 1722A of title 38, United States Code, to extend until September 30, 2002, the VA's authority to collect a $2 copayment for each 30-day supply of medication furnished for the outpatient treatment of a non-service-connected condition of certain veterans.

Section 11012 would amend section 1729(a)(2)(E) of title 38, United States Code, to:

(1) extend the VA's authority to collect from a health care plan the reasonable cost of medical care furnished before October 1, 2002 to a service-connected veteran for nonservice-connected treatment, and

(2) temporarily eliminate the distinction in law between care of service-connected disabilities and other disabilities for purposes of recoveries under section 1729 for care or services provided for such disabilities.

Section 11013 would amend section 5317(g) of title 38, United States Code and section 6103(l)(7)(D) of title 26, United States Code, to extend until September 30, 2002, the Secretary's authority to verify the eligibility of, or applicants for, VA need-based benefits and means-tested medical care using income data from the Internal Revenue Service and the Social Security Administration.

Section 11014 would amend section 5503(f)(7) of title 38, United States Code, to extend until September 30, 2002, the VA's authority to limit to $90 a month the maximum amount of VA need-based pension that may be paid to Medicaid-eligible veterans and surviving spouses who have no dependents and who are in nursing homes that participate in Medicaid.

Section 11015 would amend section 3729(a) of title 38, United States Code, to extend the VA's requirement to charge a basic fee to veterans and servicemembers who use the Home Loan Guaranty

Program. The fee would apply to loans closed after September 20, 1993, but before October 1, 2002. Veterans receiving or entitled to receive compensation for service-connected disabilities would continue to be exempt from payment of a loan fee.

Section 11016 would amend section 3732(c)(11) of title 38, United States Code, to extend the VA's authority to anticipate resale losses when a property guaranteed through the VA Home Loan Guaranty Program goes into foreclosure. This authority would apply to loans closed before October 1, 2002.

Section 11021(a) would, in conjunction with section 11011(b), amend section 1722A(a) of title 38, United States Code, to increase the prescription drug copayment from $2 to $3 during fiscal years 1996 through 2002. Veterans with a service-connected disability rated 50 percent or more, or whose annual income does not exceed the maximum annual rate of pension benefit would continue to be exempt from the copayment requirement.

Section 11021(b) would amend section 5303 of title 38, United States Code, to eliminate the Secretary's authority to waive copayments or to waive the collection of any indebtedness from failure to make a copayment.

Section 11022 would amend chapter 11 and chapter 13 of title 38, United States Code, to specify the computation method of cost-of-living adjustments [COLA's] in disability compensation and DIC rates. The COLA's would be adjusted by a uniform percentage which is no more than the percentage equal to the social security increase—the percentage by which benefit amounts are payable under title II of the Social Security Act, 42 U.S.C. 401 et. seq., for that fiscal year. The computation of an increase in such benefits would include a round down of the compensation increase to the next lower dollar. Section 11022 would specify that the DIC COLA be calculated on the flat rate of $790 for both old and new-law recipients. This authority would be extended through September 30, 2002.

Section 11023 would amend section 1151 of title 38, United States Code, to revise the standard for liability for injuries proximately resulting from medical treatment or vocational rehabilitation provided by the VA. Under section 11023, the VA would be responsible for negligence or an event not reasonably foreseeable.

Section 11024 would amend section 3720(h)(2) of title 38, United States Code, to extend until September 30, 1996, the Secretary's authority to issue and guarantee the timely payment of principal and interest on certificates issued by the real estate mortgage investment conduits that are used to market certain home loans.

Section 11025 would amend section 3726 of title 38, United States Code, to enable the VA to refer certain loan guaranty debts to the IRS for offset of income tax refunds and refer these debts for salary offset if the debtor is identified as a Federal employee. Section 11025 would allow the VA to collect home loan guaranty debts as it currently does for all debts arising under other VA programs. It would also require that the VA provide veterans with notice and opportunity to seek a waiver or challenge the validity of the debt before collection.

Section 11031 would:

(1) amend sections 1710 and 1712 of title 38, United States Code, to establish medical need as the sole criterion of eligibility for VA hospital care and medical services for any veteran who—

(a) has a compensable service-connected disability,

(b) is a former prisoner of war,

(c) is unable to defray the cost of care, or

(d) is a veteran of World War I;

(2) provide that such care shall be furnished subject to the availability of appropriations; and

(3) recodify other veterans' eligibility for care in accordance with existing criteria.

Section 11032 would extend expiring provisions of law authorizing medical care to veterans of the Persian Gulf War.

Section 11033 would:

(1) amend the definition of medical services in chapter 17 of title 38, United States Code, to strike language conditioning certain veterans' eligibility for prosthetics on the individual's being hospitalized,

(2) provide that a veteran may be furnished such devices in the course of his or her VA care or treatment, and

(3) require that eyeglasses and hearing aids may only be furnished in accordance with guidelines to be prescribed by VA.

Section 11034 would amend chapter 17 of title 38 applicable to managing delivery of care under new section 1710(a)(1) to:

(1) require VA to administer care-delivery through an annual patient enrollment, with veterans' right to enroll to be governed by the availability of appropriations and by reference to a system of listed priorities;

(2) require that the size of the enrollment pool be governed by the requirement that provision of care to enrollees be timely and acceptable in quality;

(3) require that VA promote cost-effective delivery of care in the most clinically appropriate setting; and

(4) require VA to maintain its capacity to provide for the specialized treatment needs of disabled veterans; and

Section 11034 would also:

(1) permit VA to contract for care when its facilities cannot furnish care and services economically,

(2) strike other limitations in current law on contracting for care of a veteran, and

(3) require that any service-connected veteran is provided all benefits to which that individual had been eligible before the act's enactment;

Section 11035 would extend expiring law which authorizes the VA to provide care and services through contract arrangements to Department of Defense beneficiaries under chapter 55 of title 10, United States Code, and would clarify VA's authority to recover or collect from insurance plans of CHAMPUS beneficiaries cared for by VA.

Section 11036 would amend provisions of subchapter IV of chapter 81, title 38, United States Code, to:

(1) expand both the range of health care resources which can be the subject of mutual use or exchange of use contracts, and the kind of entities with which VA may so contract;

(2) provide that VA may execute such contracts involving any health-care resource, and may contract with any individual or entity, including a health plan;

(3) provide greater flexibility as to when a VA facility may enter into such a contract, and what payment requirements it may negotiate in selling services, while conditioning the circumstances under which VA furnishes services to nonveterans to those—

(a) that would not delay or deny veteran care and;

(b) that would result in improving the care of veterans; and

(4) clarify that VA is to be reimbursed when it provides services under a sharing agreement to a Medicare-covered patient.

Section 11037 would amend section 712 of title 38, United States Code, to provide that for purposes of determining the minimum number of positions to be maintained in the Department of Veterans Affairs during a fiscal year, the number of positions in the Department in any fiscal year—to be reduced under existing law by reference to specified categories of positions—is to be further reduced by the number of positions in that fiscal year held by persons involved in providing health-care resources under sharing agreements executed under section 8111, as expanded by section 201 of Public Law 102–585, or section 8152 of title 38, United States Code.

CHANGES IN EXISTING LAW MADE BY TITLE XI OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 8013 OF THE OMNIBUS BUDGET RECONCILIATION OF 1990

SEC. 8013. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) * * *

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(e) SUNSET.—The amendments made by this section expire on September 30, [1998] *2002*.

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 7—EMPLOYEES

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§ 712. Full-time equivalent positions: limitation on reduction

(a) * * *

(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

(1) the number of such positions in the Department during that fiscal year, reduced by

(2) [the sum of—] *the sum of the following:*

(A) [the] *The* number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds[; and].

(B) [the] *The* number of such positions held during that fiscal year by persons involved in medical care cost recovery activities under section 1729 of this title.

(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE–CONNECTED DISABILITY OR DEATH

SUBCHAPTER I—GENERAL

Sec.
1101. Definitions.
1102. Special provisions relating to surviving spouses.
1103. Cost-of-living adjustments.

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SUBCHAPTER I—GENERAL

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§ 1103. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than

the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b) For purposes of this section, the term "social security increase" means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

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SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

§ 1151. Benefits for persons disabled by treatment or vocational rehabilitation

[Where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded under any of the laws administered by the Secretary, or as a result of having submitted to an examination under any such law, and not the result of such veteran's own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected.**]**

(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

(A) was caused by Department health care and was a proximate result of—

(i) negligence on the part of the Department in furnishing the Department health care; or

(ii) an event not reasonably foreseeable; or

(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

(2) For purposes of this section, the term "Department health care" means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section.

(c) Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28 by reason of a disability[, aggravation,] or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability[, aggravation,] or death becomes final until the aggregate amount of benefits which would be paid but for this [sentence] *subsection* equals the total amount included in such judgment, settlement, or compromise.

(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

(1) was the result of Department health care; or

(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.

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CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE–CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
1301. Definitions.
1302. Determination of pay grade.
1303. Cost-of-living adjustments.

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SUBCHAPTER I—GENERAL

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§ 1303. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

(2) For purposes of paragraph (1):

(A) The term "old-law DIC rates" means the dollar amounts in effect under section 1311(a)(3) of this title.

(B) The term "new-law DIC rate" means the dollar amount in effect under section 1311(a)(1) of this title.

(c) For purposes of this section, the term "social security increase" means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

* * * * * * *

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

SUBCHAPTER I—GENERAL

Sec.
1701. Definitions.
1702. Presumption relating to psychosis.
[1703. Contracts for hospital care and medical services in non-Department facilities.]
1703. Annual report on furnishing of care and services by contract.

* * * * * * *

1705. Management of health care: patient enrollment system.
1706. Management of health care: other requirements.

* * * * * * *

SUBCHAPTER I—GENERAL

§ 1701. Definitions

For the purposes of this chapter—

(1) * * *

* * * * * * *

(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services—

(A)(i) surgical services, dental services and appliances as described in sections 1710 and 1712 of this title, optometric and podiatric services [(in the case of a person otherwise receiving care or services under this chapter)], preventive health services, and [(except under the conditions described in section 1712(a)(5)(A) of this title),] *(in the case of a person otherwise receiving care or services under this chapter)* wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, *except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe,* and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

* * * * * * *

[§ 1703. Contracts for hospital care and medical services in non-Department facilities

[(a) When Department facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary, as authorized in section 1710 or 1712 of

this title, may contract with non-Department facilities in order to furnish any of the following:

[(1) Hospital care or medical services to a veteran for the treatment of—

[(A) a service-connected disability;

[(B) a disability for which a veteran was discharged or released from the active military, naval, or air service; or

[(C) a disability of a veteran who has a total disability permanent in nature from a service-connected disability.

[(2) Medical services for the treatment of any disability of—

[(A) a veteran described in section 1712(a)(1)(B) of this title;

[(B) a veteran described in paragraph (2), (3), or (4) of section 1712(a) of this title, for a purpose described in section 1712(a)(5)(B) of this title; or

[(C) a veteran described in section 1712(a)(3) (other than a veteran who is a former prisoner of war) of this title if the Secretary has determined, based on an examination by a physician employed by the Department (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Department facilities.

[(3) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Department facility or nursing home care under section 1720 of this title until such time following the furnishing of care in the non-Department facility as the veteran can be safely transferred to a Department facility.

[(4) Hospital care for women veterans.

[(5) Hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State (other than the Commonwealth of Puerto Rico) not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Department in Government and non-Department facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Department within the 48 contiguous States and the Commonwealth of Puerto Rico.

[(6) Diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Department out-patient clinics to obviate the need for hospital admission.

[(7) Outpatient dental services and treatment, and related dental appliances, for a veteran described in section 1712(b)(1)(F) of this title.

[(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Secretary.

[(b) In the case of any veteran for whom the Secretary contracts to furnish care or services in a non-Department facility pursuant to a provision of subsection (a) of this section, the Secretary shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.]

§ 1703. Annual report on furnishing of care and services by contract

[(c)] The Secretary shall include in the budget documents which the Secretary submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under [this section, sections] *sections 1710,* 1712A, 1720, 1720A, 1724, and 1732 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322; 102 Stat. 501).

* * * * * * *

§ 1705. Management of health care: patient enrollment system

(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

(1) Veterans with service-connected disabilities rated 30 percent or greater.

(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

(b) In the design of an enrollment system under subsection (a), the Secretary—

(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

§ 1706. Management of health care: other requirements

(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the ex-

tent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services;

(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.

SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

§ 1710. Eligibility for hospital, nursing home, and domiciliary care

[(a)(1) The Secretary shall furnish hospital care, and may furnish nursing home care, which the Secretary determines is needed—

[(A) to any veteran for a service-connected disability;

[(B) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

[(C) to a veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

[(D) to a veteran who has a service-connected disability rated at 50 percent or more, for any disability;

[(E) to any other veteran who has a service-connected disability, for any disability;

[(F) to a veteran who is a former prisoner of war, for any disability;

[(G) to a veteran exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e) of this section;

[(H) to a veteran of the Mexican border period or World War I, for any disability; and

[(I) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

[(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a nonservice-connected disability, subject to the provisions of subsection (f) of this section.]

(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

(A) with a compensable service-connected disability;

(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

(D) who is a former prisoner of war;

(E) of the Mexican border period or of World War I;

(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.

* * * * * * *

(e)(1)(A) Subject to paragraphs (2) and (3) of this subsection, a veteran—

(i) who served on active duty in the Republic of Vietnam during the Vietnam era, and

(ii) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era,

is eligible for [hospital care and nursing home care] *hospital care, medical services, and nursing home care* under [subsection (a)(1)(G) of this section] *subsection (a)(1)(F)* for any disability, not-

withstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(B) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, is eligible for [hospital care and nursing home care] *hospital care, medical services, and nursing home care* under [subsection (a)(1)(G) of this section] *subsection (a)(1)(F)* for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for [hospital care and nursing home care] *hospital care, medical services, and nursing home care* under [subsection (a)(1)(G) of this section] *subsection (a)(1)(F)* for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(2) Hospital and nursing home care *and medical services* may not be provided under [subsection (a)(1)(G) of this section] *subsection (a)(1)(F)* with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in subparagraph (A), (B), or (C) of paragraph (1) of this subsection.

(3) Hospital and nursing home care and medical services may not be provided under or by virtue of [subsection (a)(1)(G) of this section] *subsection (a)(1)(F)* after June 30, 1995, or, in the case of care for a veteran described in paragraph (1)(C), after December 31, [1995] *1998*.

* * * * * * *

[(f)] *(g)*(1) The Secretary may not furnish medical services under subsection (a) of this section (including home health services under section 1717 of this title) to a veteran who is eligible for hospital care under this chapter by reason of [section 1710(a)(2) of this title] *subsection (a)(2) of this section* unless the veteran agrees to pay to the United States the amount determined under paragraph (2) of this subsection.

(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Department facility. Such estimated average cost shall be determined by the Secretary.

(3) This subsection does not apply with respect to home health services under section 1717 of this title to the extent that such services are for improvements and structural alterations.

(4) Amounts collected or received by the Department under this subsection shall be deposited in the Treasury as miscellaneous receipts.

[(g)] *(h)* Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

* * * * * * *

§ 1712. Eligibility for outpatient services

[(a)(1) Except as provided in subsection (b) of this section, the Secretary shall furnish on an ambulatory or outpatient basis such medical services as the Secretary determines are needed—

[(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service);

[(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more;

[(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section); and

[(D) during the period before December 31, 1995, for any disability in the case of a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and who the Secretary finds may have been exposed to a toxic substance or environmental hazard during such service, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure.

[(2) The Secretary shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

[(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

[(B) to any veteran who is eligible for hospital care under section 1710(a) of this title and whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 1521(d) of this title.

[(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Secretary determines are needed—

[(A) to any veteran who is a former prisoner of war;

[(B) to any veteran of the Mexican border period or of World War I; and

[(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

[(4) Subject to subsection (f) of this section, the Secretary may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 1710 of this title and who is not otherwise eligible for such services under this subsection.

[(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

[(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Secretary may authorize a longer period in any case if the Secretary finds that a longer period is required by reason of the disability being treated.

[(6) In addition to furnishing medical services under this subsection through Department facilities, the Secretary may furnish such services in accordance with section 1503 of this title.

[(7) Medical services may not be furnished under paragraph (1)(D) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.]

[(b)] *(a)*(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) * * *

* * * * * * *

[(c)] *(b)* Dental services and related appliances for a dental condition or disability described in paragraph (1)(B) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

[(d)] *(c)* Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Secretary under this section may be procured by the Secretary either by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.

[(f)(1) The Secretary may not furnish medical services under subsection (a) of this section (including home health services under section 1717 of this title) to a veteran who is eligible for hospital

care under this chapter by reason of section 1710(a)(2) of this title unless the veteran agrees to pay to the United States the amount determined under paragraph (2) of this subsection.

[(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Department facility. Such estimated average cost shall be determined by the Secretary.

[(3) This subsection does not apply with respect to home health services under section 1717 of this title to the extent that such services are for improvements and structural alterations.

[(4) Amounts collected or received by the Department under this subsection shall be deposited in the Treasury as miscellaneous receipts.]

[(h)] *(d)* The Secretary shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of a period of war, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran. The Secretary shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

[(i) The Secretary shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

[(1) To a veteran (A) who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section, or (B) who is eligible for counseling and care and services under section 1720D of this title, for the purposes of such counseling and care and services.

[(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling or (B) who is being examined to determine the existence or severity of a service-connected disability.

[(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 1710(e) of this title.

[(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

[(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of nec-

essary care as determined under section 1722(a)(3) of this title.]

[(j)] *(e)* In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Secretary may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Department health care facility. Any such immunization shall be made using vaccine furnished by the Secretary of Health and Human Services at no cost to the Department. For such purpose, notwithstanding any other provision of law, the Secretary of Health and Human Services may provide such vaccine to the Department at no cost. Section 7316 of this title shall apply to claims alleging negligence or malpractice on the part of Department personnel granted immunity under such section.

* * * * * * *

§ 1722A. Copayment for medications

(a)(1) Subject to paragraph (2), the Secretary shall require a veteran to pay the United States [$2] *$3* for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

[(2) The Secretary may not require a veteran to pay an amount in excess of the cost to the Secretary for medication described in paragraph (1).]

[(3)] *(2)* Paragraph (1) does not apply—

(A) to a veteran with a service-connected disability rated 50 percent or more; or

(B) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.

* * * * * * *

(c) The provisions of subsection (a) expire on September 30, [1998] *2002*.

* * * * * * *

§ 1729. Recovery by the United States of the cost of certain care and services

(a)(1) * * *

(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

(A) * * *

* * * * * * *

(E) for which care and services are furnished before October 1, [1998] *2002*, under this chapter to a veteran who—

(i) has a service-connected disability; and

(ii) is entitled to care (or payment of the expenses of care) under a health-plan contract.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * * * *

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3720. Powers of Secretary

(a) * * *

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(h)(1) The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

(2) The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after [December 31, 1995] *September 30, 1996.*

* * * * * * *

§ 3726. Withholding of payments, benefits, etc.

No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law administered by the Department of Veterans Affairs) which such veteran or surviving spouse would otherwise be entitled to receive because of any liability to the Secretary allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, [unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.] *unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, un-*

less the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.

* * * * * * *

§ 3729. Loan fee

(a)(1) * * *

* * * * * * *

(4) With respect to a loan closed after September 30, 1993, and before October 1, [1998] *2002*, for which a fee is collected under paragraph (1), the amount of such fee, as computed under paragraph (2), shall be increased by 0.75 percent of the total loan amount other than in the case of a loan described in subparagraph (A), (D)(ii), or (E) of paragraph (2).

(5)(A) * * *

* * * * * * *

(C) This paragraph applies with respect to a loan closed after September 30, 1993, and before October 1, [1998] *2002*.

* * * * * * *

§ 3732. Procedure on default

(a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(11) This subsection shall apply to loans closed before October 1, [1998] *2002*.

* * * * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * * * *

§ 5302. Waiver of recovery of claims by the United States

(a) * * *

(b) With respect to any loan guaranteed, insured, or made under chapter 37 of this title, the Secretary shall, except as provided in subsection (c) of this section, waive payment of an indebtedness to the Department by the veteran (as defined in sections 101, 3701, and 3702(a)(2)(C)(ii) of this title), or the veteran's spouse, following default and loss of the property, where the Secretary determines that collection of such indebtedness would be against equity and good conscience. An application for relief under this subsection must be made within one year after the date on which the veteran

receives notice by certified mail *with return receipt requested* from the Secretary of the indebtedness. The Secretary shall include in the notification a statement of the right of the veteran to submit an application for a waiver under this subsection and a description of the procedures for submitting the application.

* * * * * * *

(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.

* * * * * * *

§ 5317. Use of income information from other agencies: notice and verification

(a) * * *

* * * * * * *

(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(*l*)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, [1998] *2002*.

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CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

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§ 5503. Hospitalized veterans and estates of incompetent institutionalized veterans

(a) * * *

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(f)(1) * * *

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(7) This subsection expires on September 30, [1998] *2002*.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

Sec.
8101. Definitions.

* * * * * * *

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

[8151. Statement of congressional purpose.]

[8152] *8151*. Definitions.
[8153] *8152*. Specialized medical resources.
[8154] *8153*. Exchange of medical information.
[8155] *8154*. Pilot programs; grants to medical schools.
[8156] *8155*. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.
[8157] *8156*. Joint title to medical equipment.
[8158] *8157*. Deposit in escrow.

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

* * * * * * *

§ 8110. Operation of medical facilities

(a) * * *

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(c)(1) * * *

* * * * * * *

(3) The provisions of paragraph (1) of this subsection do not apply—

(A) to a contract or agreement under chapter 17 or section 8111, 8111A, or [8153] *8152* of this title or under section 1535 of title 31; or

* * * * * * *

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

[§ 8151. Statement of congressional purpose

[It is the purpose of this subchapter to improve the quality of hospital care and other medical service provided veterans under this title, by authorizing the Secretary to enter into agreements with medical schools, health-care facilities, and research centers throughout the country in order to receive from and share with such medical schools, health-care facilities, and research centers the most advanced medical techniques and information, as well as certain specialized medical resources which otherwise might not be feasibly available or to effectively utilize other medical resources with the surrounding medical community, without diminution of services to veterans. Among other things, it is intended, by these means, to strengthen the medical programs at those Department hospitals which are located in small cities or rural areas and thus are remote from major medical centers. It is further the purpose of this subchapter to improve the provision of care to veterans under this title by authorizing the Secretary to enter into agreements with State veterans facilities for the sharing of health-care resources.]

[§ 8152] § *8151*. Definitions

For the purposes of this subchapter—

(1) The term "research center" means an institution (or part of an institution), the primary function of which is research, training of specialists, and demonstrations and which, in con-

nection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

(2) The term "specialized medical resources" means medical resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

(3) The term "health-care resource" includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, any other health-care service, and any health-care support or administrative resource.

(4) The term "hospital", unless otherwise specified, includes any Federal, State, local, or other public or private hospital.

[§ 8153] § *8152*. Specialized medical resources

(a)(1) To secure certain specialized medical resources which otherwise might not be feasibly available, or to effectively utilize certain other medical resources, the Secretary may, when the Secretary determines it to be in the best interest of the prevailing standards of the Department medical care program, make arrangements, by contract or other form of agreement for the mutual use, or exchange of use, of—

(A) [specialized medical resources] *health-care resources* between Department health-care facilities and [other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools] *any medical school, health-care provider, health-care plan, insurer, or other entity or individual*; and

(B) health-care resources between Department health-care facilities and State home facilities recognized under section 1742(a) of this title.

(2) The Secretary may enter into a contract or other agreement under paragraph (1) [only if (A) such an agreement will obviate the need for a similar resource to be provided in a Department health care facility, or (B) the Department resources which are the subject of the agreement and which have been justified on the basis of veterans' care are not] *if such resources are not, or would not be,* used to their maximum effective capacity.

(b) Arrangements entered into under this section shall provide for [reciprocal reimbursement based on a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved.] *payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.* Any proceeds to the Government received therefrom shall be credited to the applicable Department medical appropriation and to funds that have been allotted to the facility that furnished the resource involved.

(c) Eligibility for hospital care and medical services furnished any veteran pursuant to this section shall be subject to the same terms as though provided in a Department health care facility, and

provisions of this title applicable to persons receiving hospital care or medical services in a Department health care facility shall apply to veterans treated under this subsection.

(d) When a Department health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise [preclude such payment, in accordance with—

[(1) rates prescribed by the Secretary of Health and Human Services, after consultation with the Secretary, and

[(2) procedures jointly prescribed by the two Secretaries to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor] *preclude such payment to such facility for such care or services* or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.

(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

(2) that such an arrangement—

(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

(B) will result in the improvement of services to eligible veterans at that facility.

[(e)] *(f)* The Secretary shall submit to the Congress not more than 60 days after the end of each fiscal year a report on the activities carried out under this section. Each report shall include—

(1) an appraisal of the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise; and

(2) recommendations for the improvement or more effective administration of such activities.

[§ 8154] § *8153*. Exchange of medical information

(a) * * *

* * * * * * *

[§ 8155] § *8154*. Pilot programs; grants to medical schools

(a) * * *

(b) The Secretary, upon the recommendation of the Subcommittee, is authorized to make grants to medical schools, hospitals, and research centers to assist such medical schools, hospitals, and research centers in planning and carrying out agreements authorized by section [8154] *8153* of this title. Such grants may be used for the employment of personnel, the construction of facilities, the pur-

chasing of equipment when necessary to implement such programs, and for such other purposes as will facilitate the administration of this section.

* * * * * * *

[§ 8156] § *8155*. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974

The Secretary and the Secretary of Health and Human Services shall, to the maximum extent practicable, coordinate programs carried out under this subchapter and programs carried out under part F of title XVI of the Public Health Service Act (42 U.S.C. 300 et seq.).

[§ 8157] § *8156*. Joint title to medical equipment

(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section [8153(a)] *8152(a)* of this title for the joint acquisition of medical equipment.

(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section [8153] *8152* of this title for the exchange or use of the equipment.

(4) The Secretary may not contract for the acquisition of medical equipment to be purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

* * * * * * *

[§ 8158] § *8157*. Deposit in escrow

(a) To facilitate the procurement of medical equipment pursuant to section [8157] *8156* of this title, the Secretary may enter into escrow agreements with institutions described in section [8153(a)] *8152(a)* of this title. Any such agreement shall provide that—

(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section [8157(b)(4)] *8156(b)(4)* of this title;

(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all ac-

crued interest or other earnings on the escrowed funds to the institution.

* * * * * * *

SECTION 6103 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION

(a) * * *

* * * * * * *

(l) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) * * *

* * * * * * *

(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT, THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE, OR CERTAIN HOUSING ASSISTANCE PROGRAMS.—

(A) * * *

* * * * * * *

(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

* * * * * * *

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV). Clause (viii) shall not apply after September 30, [1998] *2002*; and

* * * * * * *

VETERANS HEALTH CARE ACT OF 1992

* * * * * * *

TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

* * * * * * *

[SEC. 204. EXPIRATION OF AUTHORITY.

[The authority to provide services pursuant to agreements entered into under section 201 expires on October 1, 1996.]

* * * * * * *

SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.

* * * * * * *

ROLLCALL

Subject: Vote on recommendations to the Budget Committee on reconciliation.

Name	Present	Absent	Yea	Nay	Not voting
Bob Stump, AZ, Chairman			X		
Christopher H. Smith, NJ, Vice Chairman			X		
Michael Bilirakis, FL			X		
Floyd Spence, SC			X		
Tim Hutchinson, AR			X		
Terry Everett, AL			X		
Steve Buyer, IN			X		
Jack Quinn, NY			X		
Spencer Bachus, AL			X		
Cliff Stearns, FL			X		
Bob Ney, OH			X		
Jon Fox, PA			X		
Mike Flanagan, IL					X
Bob Barr, GA			X		
Jerry Weller, IL			X		
J.D. Hayworth, AZ			X		
Wes Cooley, OR			X		
Dan Schaefer, CO			X		
G.V. (Sonny) Montgomery, MS, Ranking			X		
Lane Evans, IL				X	
Joseph P. Kennedy II, MA				X	
Chet Edwards, TX			X		
Maxine Waters, CA					X
Bob Clement, TN				X	
Bob Filner, CA					X
Fank Tejeda, TX				X	
Luis V. Gutierrez, IL				X	

Name	Present	Absent	Yea	Nay	Not voting
Scotty Baesler, KY				X	
Sanford Bishop, GA				X	
James E. Clyburn, SC					X
Corrine Brown, FL				X	
Mike Dolye, PA			X		
Frank Mascara, PA			X		
Total			21	8	4

ROLLCALL

Subject: Vote to include eligibility reform in reconciliation recommendations.

Name	Present	Absent	Yea	Nay	Not voting
Bob Stump, AZ, Chairman			X		
Christopher H. Smith, NJ, Vice Chairman			X		
Michael Bilirakis, FL			X		
Floyd Spence, SC			X		
Tim Hutchinson, AR			X		
Terry Everett, AL			X		
Steve Buyer, IN			X		
Jack Quinn, NY			X		
Spencer Bachus, AL			X		
Cliff Stearns, FL			X		
Bob Ney, OH			X		
Jon Fox, PA			X		
Mike Flanagan, IL					X
Bob Barr, GA			X		
Jerry Weller, IL			X		
J.D. Hayworth, AZ			X		
Wes Cooley, OR			X		
Dan Schaefer, CO			X		
G.V. (Sonny) Montgomery, MS, Ranking			X		
Lane Evans, IL			X		
Joseph P. Kennedy II, MA			X		
Chet Edwards, TX			X		
Maxine Waters, CA					X
Bob Clement, TN			X		
Bob Filner, CA					X
Frank Tejeda, TX			X		
Louis V. Gutierrez, IL			X		
Scotty Baesler, KY			X		
Sanford Bishop, GA			X		
James E. Clyburn, SC					X
Corrine Brown, FL			X		
Mike Doyle, PA			X		
Frank Mascara, PA			X		
Total			29	0	4

CONGRESSIONAL BUDGET OFFICE COST ESTIMATES

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 4, 1995.

Hon. BOB STUMP,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office [CBO] has prepared the enclosed cost estimate for the reconciliation recommendations of the House Committee on Veterans' Affairs, as approved by the committee on September 28, 1995.

The estimate shows the budgetary effects over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill title: Title XI, Veterans Reconciliation Act of 1995.

2. Bill status: As approved by the House Committee on Veterans' Affairs on September 28, 1995.

3. Bill purpose: This bill would reduce spending in programs within the jurisdiction of the House Committee on Veterans' Affairs.

4. Estimated cost to the Federal Government: The following table shows the estimated effects of the bill on direct spending. In addition, the bill would make several changes to law that would expand eligibility for medical care for veterans. Although these provisions are difficult to estimate, CBO believes that they would significantly increase the cost of medical care, assuming appropriation of the necessary amounts.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Direct spending							
Proposed changes:							
Estimated budget authority	−261	−333	−475	−1,243	−1,319	−1,381	−1,441
Estimated outlays	−251	−320	−463	−1,230	−1,397	−1,295	−1,440
Amounts subject to appropriations							
Health care eligibility reform:							
Estimated authorization level	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)

[1] See text.

5. Basis of estimate: This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later. If enacted, the bill would result in savings from four programs of the Department of Veterans Affairs [VA]—compensation, pensions, medical care, and housing.

COMPENSATION

Veterans compensation would be affected by two provisions. The combined effects of these provisions are shown in table 1.

Revised liability standards (section 11023).—Veterans who are injured during treatment in a VA facility or in vocational rehabilitation and their survivors may be eligible to receive disability compensation benefits. Recent court decisions require that VA consider claims for compensation from veterans whose conditions worsen after treatment in VA facilities regardless of whether the cause was negligence or accident. VA has already begun to pay compensation to some of the 11,500 cases that had been pending since 1991. This section would revise liability standards for treatment in VA facilities, in effect reversing the recent Supreme Court decision and allowing VA to deny future claims based on such incidents. This section would expire September 30, 2002.

TABLE 1.—BUDGET IMPACT OF PROPOSED CHANGES TO VETERANS COMPENSATION

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Direct spending								
Spending under current law:								
Estimated budget authority	4,176	14,835	15,395	15,976	16,594	17,018	17,213	18,074
Estimated outlays	14,422	13,675	15,312	15,928	16,543	18,241	15,803	16,573
Proposed changes:								
Estimated budget authority	0	−116	−268	−407	−557	−591	−614	−632
Estimated outlays	0	−106	−255	−395	−545	−633	−566	−632
Spending under proposals:								
Estimated budget authority	14,176	14,719	15,127	15,569	16,037	16,427	16,599	17,442
Estimated outlays	14,422	13,569	15,057	15,533	15,998	17,608	15,237	15,941

Recent studies have found that adverse events leading to disability or death occur in about 4 percent of all hospital admissions, 80 percent of which are not caused by negligence.[1 2] Applying this finding to the population of inpatients and outpatients treated in VA hospitals indicates that under current law, about 19,000 veterans could be newly eligible for compensation benefits in 1996, with an average annual benefit of about $5,400. Under this provision, these veterans would not be awarded compensation benefits.

Nor would benefits be awarded to their surviving spouses. Dependency and indemnity compensation [DIC] is a monthly benefit for surviving spouses of veterans who die from their service-connected disabilities. This estimate assumes that about 500 survivors would become eligible for DIC benefits in 1996 under current law,

[1] Trogen A. Brennan and others, "Incidence of Adverse Events and Negligence in Hospitalized Patients—Results of the Harvard Medical Practice Study I." New England Journal of Medicine, vol. 324, no. 6 (February 7, 1991), p. 370.

[2] Lucian L. Leaps and others, "The Nature of Adverse Events in Hospitalized Patients—Results of the Harvard Medical Practice Study II." New England Journal of Medicine, vol. 324, no. 6 (February 7, 1991), p. 377.

with an additional 500 new cases every year as veterans die. The average annual DIC benefit is about $10,000 in 1996.

This estimate assumes both compensation and DIC rates of affected veterans and survivors would be increased throughout the projected period by cost-of-living adjustments. Savings would be about $90 million in 1996 and $465 million in 2002.

Cost-of-living allowances (section 11022).—Under CBO baseline assumptions, monthly rates of disability compensation paid to veterans and of dependency and indemnity compensation [DIC] paid to their survivors are increased by the same cost-of-living adjustment [COLA] payable to Social Security recipients, and the results of the adjustments are rounded to the nearest dollar.

This provision would change current law in two ways. First, it would round down to the next lower adjustments to disability compensation through 2002. Second, the provision would change the COLA provided to DIC recipients. The Dependency and Indemnity Compensation Reform Act of 1992 redefined the DIC benefit to be a constant amount in contrast to previous law that varied the benefit based on the military rank of the recipient's spouse. Beneficiaries at the time of the act could continue to receive their existing payment if it was higher than the new benefit. Under CBO baseline assumptions, grandfathered beneficiaries receive COLA's that are computed as a percentage of their benefit. This bill, however, would make the COLA a flat rate amount equal to the adjustment in the flat DIC benefit under the 1992 act and this bill.

CBO estimated the savings from this provision using the current table of monthly benefits, the number of beneficiaries assumed in the CBO baseline, and the inflation assumptions of the budget resolution. Savings from this section would be about $20 million in 1996 and about $170 million in 2002.

PENSIONS

Veterans pensions would be affected by two provisions. Table 2 displays the budgetary effects of these proposals.

Pension limits (section 11014).—This section would extend from September 30, 1998, to September 30, 2002, the expiration date on subsection 5503(f) of title 38, United States Code. This subsection sets a $90-per-month limit on pensions for any veteran without a spouse or child, or for any survivor of a veteran, who is receiving Medicaid coverage in a Medicaid-approved nursing home. It also allows the beneficiary to retain the pension instead of having to use it to defray nursing home costs.

Based on VA's experience under current law, this estimate assumes that the extension of the expiration date would affect approximately 20,000 veterans and 40,000 survivors. According to VA, savings averaged about $7,000 per person in 1994. Higher Medicaid payments to nursing homes would offset some of the savings credited to VA. Net savings would increase from $197 million in 1999 to $217 million in 2002.

This proposal would affect veterans and survivors covered by a Medicaid plan established by title XIX of the Social Security Act. Under the reconciliation recommendations of the House Committee on Commerce, however, Medicaid would be replaced by a program of block grants to States under a new title XXI. If the Commerce

Committee's recommendations were enacted, and if subsection 5503(f) were not amended to apply to veterans and survivors covered under the new block grant, this section of the Veterans' Committee's recommendations would have no budgetary effect.

Income verification (section 11013).—Current law authorizes VA to acquire information on income reported to the Internal Revenue Service [IRS] to verify income reported by recipients of VA pension benefits. This authorization expires on September 30, 1998. This section would extend the expiration date to September 30, 2002. This estimate is based on VA's recent experience, which has shown that about $10 million in new savings is achieved annually through this income match. Savings would grow from $10 million in 1999 to $40 million in 2002 as each year a new cohort of veterans is subject to income verification. This section would also affect veterans medical care as described below.

TABLE 2.—BUDGET IMPACT OF PROPOSED CHANGES TO PENSIONS

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Direct spending								
Spending under current law:								
Estimated budget authority	2,955	2,821	2,704	2,595	2,792	2,793	2,790	2,789
Estimated outlays	2,958	2,599	2,714	2,604	2,776	3,013	2,569	2,789
Proposed changes:								
Estimated budget authority	0	0	0	0	−208	−224	−241	−258
Estimated outlays	0	0	0	0	−207	−260	−203	−257
Spending under proposals:								
Estimated budget authority	2,955	2,821	2,704	2,595	2,584	2,569	2,549	2,531
Estimated outlays	2,958	2,599	2,714	2,604	2,569	2,753	2,366	2,532

RECEIPTS FOR MEDICAL CARE

Four provisions would raise receipts related to medical care. The budgetary effects are shown in table 3.

Income verification (section 11013).—This provision would allow VA to use data from the IRS to verify the incomes of veterans receiving medical care from VA. Under current law, veterans whose income falls below a certain level qualify for free medical treatment. Veterans who receive free treatment, but are later found to be ineligible through income verification, could be charged the standard Medicare deductible ($716) for the first 90 days of care, and a $10 daily copayment. Although future treatment for that veteran would be on a discretionary basis and would depend on the availability of space, the associated payments revert to the Treasury as mandatory receipts. CBO estimates that around $4 million would be collected in 1999 and $16 million in 2002 by extending VA's authority to verify incomes of certain users of VA health care.

Medical care cost recovery authority (section 11012).—This section would extend through September 30, 2002, VA's authority to collect from third-party insurers for the cost of treating veterans with service-connected disabilities for their nonservice-connected ailments. CBO estimates that the collection rate for third-party recoveries would remain relatively constant except for inflation adjustments. CBO estimates that these collections would be about $200 million in 1999 and $230 million in 2002.

TABLE 3.—BUDGETARY IMPACT OF PROPOSED CHANGES AFFECTING RECEIPTS FOR MEDICAL CARE

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Direct spending								
Spending under current law:								
Estimated budget authority	−579	−641	−731	−758	−577	−608	−641	−676
Estimated outlays	−579	−641	−731	−758	−577	−608	−641	−676
Proposed changes:								
Estimated budget authority	0	−50	−65	−68	−331	−354	−376	−401
Estimated outlays	0	−50	−65	−68	−331	−354	−376	−401
Spending under proposals:								
Estimated budget authority	−579	−691	−796	−826	−908	−962	−1,017	−1,077
Estimated outlays	−579	−691	−796	−826	−908	−962	−1,017	−1,077

Prescription drug copayments (section 11021).—This section would increase prescription drug copayments by $1 to a total of $3 per 30 day supply and restrict the ability of the Secretary of Veterans Affairs to waive prescription drug copayments for veterans who claim an inability to pay.

The changes in prescription drug copayments would result in additional collections of $50 million in 1996. CBO estimates that increasing the copayment by $1 would yield additional collections of $23 million while restricting waivers would add an additional $27 million for 1996. In 2002, these provisions would increase collections by a total of $84 million. The estimates are based on VA's experience with copayments under current law.

Extension of certain authorities (section 11011).—This section would extend through fiscal year 2002 VA's authority to collect per diems for hospitalization and nursing home care, copayments for outpatient medications, and other payments for medical services provided to certain veterans. In general, veterans are subject to copayments if their incomes are high enough, have a rating of less than 50 percent for a service-connected disability, and are being treated for a nonservice-connected ailment.

Extending these provisions of current law would result in collections growing from $58 million in 1999 to about $70 million in 2002. In 1999, $34 million would be collected from prescription drug copayments and $23 million would be collected from per diems, copayments other than for prescription drugs, and other receipts. These estimates are based on actual 1994 collections for drug copayments and per diems of $27 million and $20 million, respectively.

HOUSING

Veterans housing would be affected by four provisions. The total budgetary impact of these provisions is shown in table 4.

Fees on housing loans (section 11015).—This section would extend until September 30, 2002, two provisions of law pertaining to the veterans Home Loan Program that are set to expire on September 30, 1998. Under one provision VA must charge certain veterans a fee of 0.75 percent of the total loan amount. CBO estimates that this provision would affect about 119,000 loans each year and raise collections by about $100 million a year.

Under current law, veterans can reuse their home loan guarantee benefit if their previous debt has been repaid in full. The second provision of this section would require VA to collect a fee of 3 percent of the total loan amount from veterans obtaining guaranteed loans after using this benefit once. CBO estimates that this fee would apply to about 13,000 loans annually and that the additional collections would exceed $40 million a year.

Net value calculation (section 11016).—This section would extend through 2002 a provision of law that requires VA to consider the losses it might incur when selling a property it may acquire through a foreclosure. Under current law, VA follows a formula defined in statute to decide whether to acquire a property or pay off the loan guarantee instead. The formula requires appraisals that may be valid at the time they are made, but do not account for changes in market conditions that may occur while VA prepares to dispose of the property. This provision would require VA to take account of losses from changes in housing prices that the appraisal does not capture. Losses of this type might be prevalent when housing prices are particularly turbulent or if appraisals were biased for other reasons.

Since 1978, VA has suffered a resale loss every year except 1993 and 1994. Recent losses average about $2,500 per home. Assuming that this provision applies to between 1,500 and 2,000 homes a year, CBO estimates that this provision would save about $4 million a year.

Payment and benefit withholding (section 11025).—This provision would permit VA to collect certain loan guarantee debts by reducing any Federal salary or Federal income tax return refund otherwise due to a veteran or surviving spouse. Under current law before VA could use these means either it would have to obtain the written consent of the debtor or the debt would have to be due to a court determination. Based on information from VA, CBO estimates that this provision would raise collections by $90 million from a stock of loans that originated several years ago. There would be no effect after 1996 because this amendment does not apply to debts from the housing program as it is now defined in law.

TABLE 4.—BUDGETARY IMPACT OF PROPOSED CHANGES TO VETERANS HOUSING

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Direct spending								
Spending under current law:								
Estimated budget authority	22	34	61	78	230	251	274	299
Estimated outlays	151	65	49	49	169	60	21	8
Proposed changes:								
Estimated budget authority	0	−95	0	0	−147	−150	−150	−150
Estimated outlays	0	−95	0	0	−147	−150	−150	−150
Spending under proposals:								
Estimated budget authority	22	−61	61	78	83	101	124	149
Estimated outlays	151	−30	49	49	22	−90	−129	−142

Enhanced loan asset sale authority (section 11024).—This section would extend through September 30, 1996, the authority of the Secretary of Veterans Affairs to guarantee the real estate mortgage

investment conduits [REMIC's] that are used to market vendee loans. Vendee loans are issued to the buyers of properties that VA acquired through foreclosures. VA then sells these loans on the secondary mortgage market using REMIC's. By guaranteeing the certificates issued on a pool of loans VA obtains a better price but also assumes risk.

CBO estimates that this provision would save about $5 million 1996 based on sales of $1.3 billion. If this provision were not enacted VA could market vendee loans under other provisions of law. Nevertheless, this provision would permit VA to realize a better price for a package of vendee loans than if it used a REMIC program of the Government National Mortgage Association. Data indicate that this provision would raise receipts by about 0.4 percent of sales.

AMOUNTS SUBJECT TO APPROPRIATIONS

Subtitle C, Health Care Eligibility Reform, contains provisions that would increase the cost of veterans medical care by $3 billion or more annually, assuming appropriation of the necessary amounts. Total spending for veterans medical care, however, would continue to be limited by amounts provided in annual appropriations acts.

The costs of this subtitle would stem primarily from changes that would make more veterans eligible for outpatient care, but provisions to extend medical care to certain Persian Gulf veterans and to expand eligibility for prosthetics would also lead to significant costs.

Eligibility for medical care.—Currently, about 10.5 million veterans are only eligible for outpatient care to the extent that it obviates the need for inpatient care or if it was a pre- or post-hospitalization visit. This bill would remove the restrictions and would enable VA to treat these veterans on an outpatient basis. As a result, a substantial number of veterans who have been denied access to outpatient clinics could demand care.

The budgetary impact of this provision has two parts—savings from shifting the current workload from unauthorized inpatient care to outpatient care, and costs from the induced demand for outpatient care. Anecdotal evidence suggests that some VA hospitals admit some of these veterans as inpatients to circumvent the restrictions on outpatient care. VA estimates suggest that shifting the currently unauthorized inpatient workload to less costly outpatient workload would save about $214 million annually. CBO estimates that the costs of the induced demand would far outweigh the savings.

These costs are difficult to estimate but would probably amount to billions of dollars each year. Costs would rise by about $3 billion a year if the greater demand for outpatient care came only from that group of veterans who now receive inpatient care from VA, but not outpatient care. This care would be provided for the nonservice-connected ailments primarily of veterans who have no service-connected disabilities and have low enough incomes, and of veterans with service-connected disabilities rated less than 50 percent.

The estimate assumes that veterans who now come to VA for inpatient care are most inclined to come to it for outpatient care.

About 3.4 million veterans who now use VA only for care related to hospital admissions would use it also for other outpatient care under the bill. About 1.3 million of these veterans already use VA for some outpatient care—presumably related to their hospital admissions, reducing the number of new users attributable to the bill to around 2.1 million veterans. Because about 52 percent of all veterans need outpatient care during a year, CBO estimates that 1.1 million veterans would come to VA each year for outpatient care because of this bill. The estimated workload was based on published counts of veterans and data from the 1992 Survey of Veterans that indicate what percent of each group came to VA for inpatient and outpatient care.

The costs of this outpatient care would amount to about $3 billion a year based on the number of visits per patient and VA's average cost per visit—about $200. Costs for this group would be even higher, by billions of dollars perhaps, if these outpatient visits led to even more inpatient admissions. Costs would be higher still if veterans who do not use the system at all are drawn to VA for medical care. Thus, costs would probably exceed $3 billion a year.

Sharing agreements with the Department of Defense.—The bill would allow VA and the Department of Defense [DOD] to continue indefinitely to treat patients eligible for each other's programs. Because the current agreement covers a relatively small number of beneficiaries, this provision by itself would probably not lead to significant costs. But sharing agreements could ultimately make it easier to treat the greater number of outpatients described above as well as other eligible veterans who do not use their benefits now.

Care for Persian Gulf veterans.—The bill would extend from December 31, 1995, to December 31, 1998, VA's authority to provide medical treatment to veterans who may have been exposed to toxic substances while serving in the Persian Gulf war. Since 1992, about 180,000 veterans have sought outpatient care for ailments believed to have resulted from exposure to toxic substances while serving in the gulf war. Forty-eight thousand gulf war veterans are on VA's registry, and registrations continue at the rate of 2,000–2,500 per month during fiscal year 1995. Based on estimates from VA, the cost of treating and testing these veterans would be $80 million per year through 1998. The cost for the final 9 months of fiscal year 1996 would be $60 million.

Prosthetics.—VA currently furnishes prosthetic devices—including artificial limbs, braces, orthotics, eye glasses, hearing aids, and wheel chairs—to veterans, but only as part of their inpatient care. This provision would revise current law by making prosthetics available on an outpatient or ambulatory care basis and would direct VA to issue new regulations to reflect this expanded access within 30 days.

This provision would increase the demand the prosthetics and other aids and—depending on regulations issued by VA—could result in substantial costs. The veteran population is aging—40 percent are now near 65 years old, and according to VA projections, the veteran population 65 and older will increase to 9.3 million by 2000, from 8.3 million in 1993. The number of veterans over 85 projected to increase by about 600 percent, reaching about 1.3 mil-

lion, by 2010. According to a 1993 study by the National Council on Disability, the prevalence of limitations in seeing, hearing, and moving increase in age; moreover, the incidence and severity of disability increases with age. Thus, the age of the veteran population, the needs of the elderly, and the expanded access to outpatient care under this bill would lead to significant costs for this provision.

Other provisions.—The bill contains other provisions related to the management of veterans health care programs, sharing agreements for specialized medical resources, and personnel furnishing shared resources. None of these provision would have a significant budgetary impact.

6. Estimated cost to the State and local governments: For 1999 through 2002, section 11014 would limit pensions to $90 a month for veterans and their survivors who are in nursing homes and who receive Medicaid. It would also allow these beneficiaries to retain their pension instead of having to use it to defray nursing home costs; thus, Federal and State Medicaid costs would increase. State governments would face higher costs that would amount to about $200 million a year—the same net amount that would be saved by the Federal Government as a result of this bill. Under the reconciliation recommendations of the House Committee on Commerce, the Medicaid Program established by title XIX of the Social Security Act would be replaced by a new program of block grants to States under title XXI.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Victoria Fraider, Michael, Groarke, and Mary Helen Petrus.

10. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE OVERSIGHT FINDINGS

The committee's oversight findings are generally contained in the Purpose and Background portion of the reconciliation recommendations. The relevant oversight activities of the committee have included the following:

On February 24, 1995, the committee held a hearing on the administration's fiscal year 1996 budget and its deficit reduction proposals;

On April 6, 1995, the Subcommittee on Hospitals and Health Care of the committee held a hearing on the reorganization of the Veterans Health Administration;

On July 19, 1995, the committee held a hearing on health care eligibility reform; and

On August 2, 1995, the Subcommittee on Education, Training, Employment and Housing of the committee held a hearing on draft legislation which included the VA's enhanced loan asset sale authority.

OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

No oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

TITLE XII—TRADE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 28, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: On September 21, 1995, the Committee on Ways and Means considered budget reconciliation recommendations on trade adjustment assistance, and pursuant to House Congressional Resolution 67, the concurrent resolution on the budget for fiscal 1996, ordered them favorably reported, as amended, to the Committee on Budget by voice vote. Accordingly, I am now transmitting the committee's recommendations to you.

Enclosed are the legislative language, explanatory report language, and the Congressional Budget Office cost estimate for the committee. Under separate covers, I have transmitted the committee's recommendations on revenue and trade items.

Please feel free to contact me or Phil Moseley if you have any questions. With best personal regards.

Sincerely,

BILL ARCHER,
Chairman.

Enclosures.

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RECONCILIATION RECOMMENDATIONS TRADE TITLE

I. Subtitle A—Technical Corrections and Miscellaneous Trade Proposals

A. INTRODUCTION

1. Purposes and summary

During the 103d Congress, two major pieces of trade legislation were passed: H.R. 3450, the North American Free Trade Imple-

mentation Act (Public Law 103–182) and H.R. 5110, the Uruguay Round Agreements Act (Public Law 103–465). The committee reviewed the need for several technical and conforming changes as a result of the enactment of major trade legislation and prior committee and subcommittee action.

2. Background and need for legislation

The recommendations would make technical corrections to various U.S. trade laws and includes other miscellaneous trade provisions. Identical provisions were reported favorably out of the Subcommittee on Trade in two separate packages on June 14 and August 2, 1995. It should be noted that a number of additional proposals that were not ready for consideration at this time have been suggested to the committee. These proposals remain under review by committee staff and the administration and may be considered at a later date.

3. Legislative history

On May 17, 1994, the House passed H.R. 3419, the Tax Simplification and Technical Corrections Act, making technical corrections to the tax and trade laws. The Senate did not act on the bill.

The committee approved a set of technical amendments for inclusion in the Uruguay Round Agreements Act, but they were not included in the final version of the bill submitted by the President.

On April 25, 1995, Trade Subcommittee Chairman Crane requested written comments from parties interested in technical corrections to recent trade legislation. The Committee on Ways and Means received many comments and proposals from the private sector and the administration. On June 15 and August 3, 1995 the Subcommittee on Trade ordered favorably reported draft legislation making technical corrections and certain other changes to trade laws.

On July 11, 1995, the subcommittee held a hearing on rules of origin. The focus of the hearing was to review the administration of U.S. law for preferential and nonpreferential rules of origin and the prospects for the ongoing WTO working program. Requests for exemptions from country of origin marking requirements for certain imports were included as part of the record of this hearing.

On June 14 and August 2, 1995, the subcommittee ordered favorably reported by voice vote two draft bills that make technical corrections to various U.S. laws and other miscellaneous trade provisions.

On September 13, 1995, the Committee on Ways and Means ordered favorably reported to the House Committee on the Budget the technical corrections and miscellaneous trade provisions in these two draft bills as subtitle A of the trade title of recommendations for inclusion in budget reconciliation legislation.

B. SECTION-BY-SECTION SUMMARY OF THE PROVISIONS RECOMMENDED BY THE COMMITTEE ON WAYS AND MEANS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

Sec. 1. Payment of duties and fees

Present law.—Section 505(c) of the Tariff Act of 1930, as amended by section 642 of the North American Free Trade Agreement [NAFTA] Implementation Act—which includes the Customs Modernization Act—provides for interest accrual on entries from the date of deposit to the date of liquidation or reliquidation. Under this authority, interest is collected or refunded, as appropriate. Section 642 of the NAFTA Act—Customs Modernization Act—became effective on the date of enactment, December 8, 1993.

Explanation of provision.—The recommendation amends section 505(c) of the Tariff Act of 1930 to provide an exemption for interest accrual on duty paid or owed where an entry is liquidated or reliquidated due to an importer's claim for preferential tariff treatment under the NAFTA Act.

Reason for change.—The underlying purpose for the interest accrual provision under section 642 of the NAFTA Act was to encourage importers to use reasonable care in determining duty liability on making an entry. This rationale does not apply in a case where an importer has up to a year after the entry to make a claim for preferential tariff treatment under NAFTA. Otherwise, an importer would be assured a guaranteed return on funds by routinely delaying a claim for NAFTA treatment and thereby receiving a refund of duties with interest. The application of the interest provision in this way was not contemplated at the time of its adoption. This change is needed to conform with the committee's original intent.

Effective date.—This section is effective for NAFTA claims made on or after April 25, 1995, the date of the subcommittee press release announcing consideration of this change.

Sec. 2. Other technical and conforming amendments

(a) Examination of books and witnesses

Present law.—Section 509(a) of the Tariff Act of 1930 provides the U.S. Customs Service the authority to examine books and summon witnesses in its investigations and inquiries.

Explanation of provision.—The recommendation amends section 509(a)(2) of the Tariff Act of 1930 to make a technical correction to the citation "subsection (c)(1)(A)" to "subsection (d)(1)(A)."

Reason for change.—This correction revises an incorrect citation.

Effective date.—December 8, 1993.

(b) Requirement for certificate for importation of alcoholic liquors in small vessels

Present law.—Section 7 of the act of August 5, 1935, requires certificates of importation for alcoholic beverages on small vessels.

Explanation of provision.—The recommendation repeals section 7 of the act of August 5, 1935.

Reason for change.—Section 7 is an obsolete statute.

Effective date.—December 8, 1993.

(c) Manifests

Present law.—Section 431 of the Tariff Act of 1930 provides requirements for vessel manifests including rules governing their form and content.

Explanation of provision.—The recommendation amends section 431(c)(1) of the Tariff Act of 1930 to clarify that the reference is to vessel manifests and does not include other types of manifests.

Reason for change.—This technical correction eliminates confusion concerning the reference in subsection (c) to a manifest described differently in subsections (a) and (b).

Effective date.—December 8, 1993.

(d) Documentation for entry of merchandise

Present law.—Section 484(a)(1) of the Tariff Act of 1930 provides requirements for the entry of merchandise.

Explanation of provision.—The recommendation amends section 484(a)(1) of the Tariff Act of 1930 to delete a reference to section 336(j).

Reason for change.—This technical correction deletes an obsolete statutory reference.

Effective date.—December 8, 1993.

(e) Penalties for certain violations

Present law.—Section 592 of the Tariff Act of 1930 provides rules for the imposition of penalties for fraud, negligence, and gross negligence.

Explanation of provision.—The recommendation amends section 592 to replace references to "lawful duty" with "lawful duty, tax, or fee."

Reason for change.—This technical correction recognizes that Customs collects taxes and fees, as well as duties.

Effective date.—December 8, 1993.

(f) Deprivation of lawful duties, taxes, or fees

Present law.—Section 592(d) of the Tariff Act of 1930 provides for the restoration of lawful duties if the U.S. has been deprived of such by a violation.

Explanation of provision.—The recommendation amends section 592(d) of the Tariff Act to replace the phrase "or fees be restored" with "and fees be restored."

Reason for change.—This technical correction ensures the restoration of duties, taxes, and fees if the United States was deprived of any duties, taxes, or fees by a violation of Section 592.

Effective date.—December 8, 1993.

(g) Reconciliation treated as entry for recordkeeping

Present law.—Section 401 of the Tariff Act of 1930 provides miscellaneous definitions and section 508 of that act provides the requirements, time periods, and limitations for import recordkeeping.

Explanation of provision.—The recommendation amends sections 401(s) and 508(c)(1) of the Tariff Act of 1930 to clarify that a reconciliation should be treated as an entry for purposes of recordkeeping laws.

Reason for change.—This change clarifies that records pertaining to reconciliation should be retained for a period of 5 years from the date of filing of the reconciliation, in conformance with the general recordkeeping requirement.

Effective date.—December 8, 1993.

(h) Extension of liquidation

Present law.—Section 504 of the Tariff Act of 1930 provides for limitations on the liquidation of entries.

Explanation of provision.—The recommendation amends section 504(d) of the Tariff Act of 1930 to ensure that when a suspension of liquidation is removed, the entry is not liquidated if an extension has been issued.

Reason for change.—By operation of law, when a suspension of liquidation is removed, Customs must liquidate entries within a specified time period. This provision clarifies that such liquidation should not occur if an extension has been issued.

Effective date.—December 8, 1993.

(i) Exemption from duty for personal and household goods accompanying returning residents

Present law.—Section 321(a)(2)(B) of the Tariff Act of 1930 originally applied to returning residents arriving from foreign countries other than the insular possessions. Due to a split in tariff classification numbers, the tariff numbers applicable to residents returning from a foreign country were inadvertently dropped.

Explanation of provision.—The recommendation amends section 321(a)(2)(B) to restore HTS item number 9804.00.65.

Reason for change.—This amendment corrects the error and ensures that U.S. residents returning from foreign countries other than the insular possessions are entitled to bring articles for personal or household use free of duty if such articles are valued at not more than $400.

Effective date.—December 8, 1993.

(j) Debt collection

Present law.—Section 631(a) of the Tariff Act of 1930 provides for the use of private collection agencies to recover debts arising under the Customs laws and owed to the U.S. Government.

Explanation of provision.—The recommendation amends section 631(a) to clarify that compensation paid to debt collection agencies applies to debts owed to Customs.

Reason for change.—The provision corrects the operation of section 631(a). It enables Customs to recover expenses associated with collecting debts when the Customs Service contracts with private collection agencies for the recovery of debts. The provision also allows Customs to pay collection agencies from recovered funds prior to depositing these funds in the Treasury.

Effective date.—December 8, 1993.

(k) Examination of books and witnesses

Present law.—Section 509 of the Tariff Act of 1930 provides Customs the authority to examine books and summon witnesses in its investigations and inquiries.

Explanation of provision.—The recommendation amends section 509(b) of the Tariff Act of 1930 to delete "appropriate regional commissioner" and substitute "officer designated pursuant to regulations."

Reason for change.—This technical correction reflects the Customs reorganization by replacing an obsolete administrative reference.

Effective date.—December 8, 1993.

(l) Review of protests

Present law.—Section 515 of the Tariff Act of 1930 provides for the review of protests, administrative reviews, modifications of decisions, and requests for accelerated disposition of requests by the district director.

Explanation of provision.—The recommendation amends section 515(d) of the Tariff Act of 1930 to delete "district director" and substitute "port director."

Reason for change.—This technical correction reflects the Customs reorganization by replacing an obsolete administrative reference.

Effective date.—December 8, 1993.

Sec. 3. Clarification regarding the application of customs user fees

Present law.—Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 111(b) of the Customs and Trade Act of 1990 provides that, in the case of agricultural products of the United States processed and packed in foreign trade zones, the ad valorem merchandise processing fee [MPF] applies solely to the value of the foreign material used to make the container. It exempts the value of domestic agricultural products from the MPF.

The U.S. Customs Service has ruled that, for all products not covered by this provision, and in the absence of an express provision to the contrary, the MPF will be assessed on both the domestic and foreign value of the merchandise entering from foreign trade zones.

Explanation of provision.—The recommendation amends section 13031(b)(8) of the Consolidated Omnibus Reconciliation Act of 1985 to clarify that the MPF will be applied only to the foreign value of merchandise entered from a foreign trade zone. In addition, the provision made by section 111(b)(2)(D)(iv) of the Trade Act of 1990 regarding the application of the MPF to processed agricultural products will apply to all entries for which liquidation has not been finalized from foreign trade zones after November 30, 1986.

Reason for change.—Section 111(b) provides that the MPF is applied solely to foreign merchandise entered from a foreign trade zone, exempting domestic value, for agricultural products. The provision extends this same treatment to nonagricultural products.

Effective date.—These provisions apply to any entry made on or after the 15th day after the date of enactment, and to any entry made after November 30, 1986, and before such 15th day, if the entry liquidation is not finalized before such 15th day.

Sec. 4. Technical amendment to the Customs and Trade Act of 1990

Present law.—Subsection (b) of section 484H of the Customs and Trade Act of 1990 provides for the transportation in bond of Canadian lottery material.

Explanation of provision.—The recommendation amends subsection (b) of section 484H of the Customs and Trade Act of 1990 to replace the phrase "entered or withdrawn from warehouse for consumption" in the "Effective Date" section with "entered for transportation in bond."

Reason for change.—This technical correction clarifies that Canadian lottery material transported in bond is not entered into the United States for consumption.

Effective date.—Date of enactment.

Sec. 5. Technical amendments regarding certain beneficiary countries

Present law.—Section 213(h) of the Caribbean Basin Economic Recovery Act (CBERA) provides duty reductions on certain handbags, luggage, flat goods, work gloves, and leather wearing apparel. Section 204(c)(1) of the Andean Trade Preference Act [ATPA] is an identical provision.

Explanation of provision.—The recommendation amends section 213(h)(1) of CBERA and section 204(c)(1) of ATPA to add the following language: "The duty reductions provided for under this section shall not apply to textile and apparel articles which are subject to textile agreements."

Reason for change.—These amendments are needed to clarify the committee's intent that the duty reductions under section 213(h) of CBERA and section 204(c)(1) of ATPA should not apply to textile and apparel articles which are subject to textile agreements.

Effective date.—These provisions apply to articles entered or withdrawn from warehouse for consumption on or after the 15th day after the date of enactment, and articles entered after December 31, 1991, and before such 15th day, which are not liquidated before such 15th day.

Sec. 6. Clarification of fees for certain customs services

Present law.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA] authorizes the Customs Service to provide reimbursable services to air couriers operating in express consignment carrier facilities and in centralized hub facilities. Customs interprets the statute to mean that they are prevented from providing reimbursable services during daytime hours to centralized hub facilities.

Explanation of provision.—The recommendation amends section 13031(b)(9)(A) of the COBRA to clarify that Customs may provide reimbursable services to centralized hub facilities during daytime hours. The provision also clarifies that Customs may be reimbursed for all services related to the determination to release cargo, and not just inspectional services. These services are reimbursable regardless of whether they are performed on site or not.

Reason for change.—This change removes an outdated statutory impediment and allows Customs to provide services and accept re-

imbursement during all hours of operation of centralized hub facilities.

Effective date.—Date of enactment.

Sec. 7. Special rule for extending time for filing drawback clarification of fees for certain customs services

Present law.—Section 313(r) of the Tariff Act of 1930 requires that a drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed. Customs has no discretion to extend the deadline.

Explanation of provision.—The recommendation amends section 313(r) of the Tariff Act of 1930 to permit an extension of 1 year from the date of enactment of this bill for filing drawback claims in cases where the President has declared a major disaster on or after January 1, 1994, and the claimant files a request for such extension with the Customs Service within 1 year from the date of enactment.

Reason for change.—As a result of a natural disaster declared by the President, such as the most recent major California earthquake, businesses may be unable to file timely drawback petitions, resulting in significant financial loss. Under current law, the Customs Service is unable to extend the filing deadline. This provision extends the Customs Service filing deadline.

Effective date.—Date of enactment, with respect to disasters on or after January 1, 1994.

Sec. 8. Treatment of certain entries

Present law.—Sections 514 and 520 of the Tariff Act of 1930 provides for protests against decisions of the Customs Service and refunds and errors, respectively.

Explanation of provision.—The recommendation provides for the liquidation or reliquidation of certain entries in accordance with an administrative review by the International Trade Administration of the Department of Commerce. Any amounts owed by the United States pursuant to the liquidation or reliquidation of these entries shall be paid within 90 days after such liquidation or reliquidation.

Reason for change.—This technical correction addresses an administrative error in which certain liquidation notices were not issued by the Customs Service before the expiration period. This error was discovered too late for an administrative solution.

Effective date.—Date of enactment.

Sec. 9. Temporary duty suspension for personal effects of participants in certain world athletic events

Present law.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule [HTS] provides for temporary reductions in rates of duty. HTS subheading 9902.98.04 provides for the duty-free entry of the personal effects, equipment, and other materials of participants in, officials of, or accredited members of delegations to world athletic events, including the XXVI Summer Olympiad and the 1996 Atlanta Paralympic Games.

Explanation of provision.—The recommendation adds HTS subheading 9902.98.05 to provide for the duty-free entry of the personal effects, equipment, and other materials to participants in, officials of, or accredited members of delegations to the 1998 Goodwill Games.

Reason for change.—The provision grants a temporary suspension of duty on the personal effects of participants in, and certain other individuals associated with, the 1998 Goodwill Games until February 1, 1999, consistent with such treatment for personal effects of participants in similar world athletic events.

Effective date.—Date of enactment.

Sec. 10. Miscellaneous technical corrections

(a) Drawback and refunds

Present law.—Section 313(s)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1313(s)(2)(B)) provides that a drawback successor may designate imported merchandise or certain other merchandise for which the successor received, before the date of succession, from the person who imported and paid duty on the imported merchandise, a certificate of delivery transferring the merchandise to the successor.

Explanation of provision.—The recommendation amends section 313(s)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1313(s)(2)(B)) by changing the first use of the word "successor" to "predecessor."

Reason for change.—This technical correction eliminates confusion stemming from incorrect wording.

Effective date.—Date of enactment.

(b) Trade Act of 1974

Present law.—Section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) provides the scope of authority for the United States Trade Representative to carry out mandatory and discretionary trade actions under section 301 of the Trade Act of 1974.

Explanation of provision.—The recommendation amends section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) to make a technical correction to a citation.

Reason for change.—This technical correction eliminates confusion stemming from an incorrect citation.

Effective date.—Date of enactment.

Sec. 11. Uruguay Round Agreements Act

Present law.—Section 405(b) of the Uruguay Round Agreements Act (19 U.S.C. 3602(b)) provides the authority for the President to impose a duty with respect to a special safeguard agricultural good.

Explanation of provision.—The recommendation amends section 405(b) of the Uruguay Round Agreements Act (19 U.S.C. 3602(b)) to make a technical correction to a citation.

Reason for change.—This technical correction eliminates confusion stemming from an incorrect citation.

Effective date.—Date of enactment.

Sec. 12. Filing of certifications for civil aircraft parts

Present law.—General note 6 of the HTS of the United States provides guidelines for articles eligible for duty-free treatment pursuant to the Agreement on Trade in Civil Aircraft.

Explanation of provision.—The recommendation amends general note 6 of the HTS to allow for the electronic filing of civil aircraft parts certifications.

Reason for change.—The Customs Modernization Act provided for the electronic filing of Customs transactions. It did not specifically authorize the electronic filing of certifications for civil aircraft parts as covered by general note 6 of the HTS. This conforming change provides importers with the option of filing certifications electronically. It will increase the operating efficiency of both the Customs Service and the business community.

Effective date.—Date of enactment.

Sec. 13. Exemption regarding certain vessel repairs

Present law.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) provides a temporary exemption from duties imposed on the foreign repair of vessels.

Explanation of provision.—The recommendation amends section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) by extending the temporary exemption for those entries made after December 31, 1992 and before January 1, 1995.

Reason for change.—The exemption under section 484E(b) of the Customs and Trade Act of 1990 for certain U.S. vessel repairs performed overseas expired at the end of 1992, in anticipation of the completion of the Uruguay round, and was reinstated on a prospective basis in the Uruguay Round Agreements Act. This provision fills a gap in the coverage of the previously expired exemption.

Effective date.—The amendment made by this section applies to entries made after December 31, 1992, and before January 1, 1995.

Sec. 14. Fees for certain customs services

Present law.—Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act [COBRA] of 1985 (19 U.S.C. 58c(b)) provides for limitations on the collection of fees for Customs services. Section 521 of the North American Free Trade Agreement [NAFTA] Implementation Act (19 U.S.C. 58c(a)(5)) increased the Customs COBRA passenger processing fee from $5 to $6.50, and temporarily (from 1/1/94 to 9/30/97) lifted the exemption on passengers arriving from Canada, Mexico, and the Caribbean. The statutory language was also modified to apply the fee to so-called cruises to nowhere.

Explanation of provision.—The recommendation amends section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) to clarify the application of section 521 of NAFTA to provide for the collection of fees only one time in the course of a single voyage for a passenger aboard a commercial vessel.

Reason for change.—Prior to NAFTA, the COBRA fee applied to passenger arrivals from a place outside the United States. In order to cover so-called cruises to nowhere (cruises which simply go out of the customs territory and return, without calling on any port

outside the United States), the statute was amended to apply to the arrival of passengers from outside the customs territory.

However, the Customs Service has adopted a legal opinion that would require the collection of the fee multiple times from cruise passengers on a single continuous voyage that touches at more than one U.S. port. This interpretation was never intended by the committee. This technical correction clarifies the original intent that no multiple collections be made.

Effective date.—The amendments made by this section take effect as if included in the amendments made by section 521 of the North American Free Trade Agreement Implementation Act.

Sec. 15. Technical corrections to certain chemical descriptions

Present law.—Subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States provides for the entry of heterocyclic compounds with nitrogen hetero-atom(s) only, and nucleic acids and their salts.

Explanation of provision.—The recommendation amends subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States to strike Quizalofop ethyl.

Reason for change.—One of the chemical products in this subheading, 2-[4-[(6-Chloro-2-quinoxalinyl)-oxy-phenoxyl-propionic acid, ethyl ester, is an agricultural herbicide for which a temporary suspension was established in 1990, as HTSUS 9902.30.58. The Uruguay round implementing legislation made this temporary suspension permanent under 2933.90.02.

The subject herbicide exists physically as two stereoisomers, or compounds with identical chemical formulas and atomic connectivity but with different spatial orientations of particular atoms or atomic groups. By striking Quizalofop ethyl, this provision clarifies that this HTS category covers all stereoisomers of this chemical product and not just one particular form of the product imported at the time of enactment of the Uruguay Round Agreements Act.

Effective date.—In general, the effective date of this section is the 15th day on or after the date of enactment of this section. The section also has a retroactive provision which provides for the liquidation or reliquidation of any entry under subheading 2933.90.02 made after December 31, 1994 and before the date 15 days after the date of enactment of this section.

Sec. 16. Marking of imported articles and containers

Present law.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) requires that every article of foreign origin imported into the United States, or its container, be marked with the country of origin of the article.

Explanation of provision.—The recommendation amends section 304 of the Tariff Act of 1930 (19 U.S.C. 1304)) to exempt certain metal forgings for hand tools, coffee products, teas, and spices from country of origin marking requirements.

Reason for change.—During hearings on the administration of rules of origin, the Trade Subcommittee became aware of instances where the interpretation of the current marking requirements was

incompatible with commercial realities and manufacturing processes. With respect to certain metal forgings for hand tools, the Customs Service revoked longstanding administrative rulings which held that, when imported forgings undergo significant processing in the United States which changes the name, character, or use of the articles, thereby achieving a substantial transformation, the completed tools are not deemed to be the product of the country where the forgings were made and need not be marked. By revoking this approach, articles which undergo significant processing in the United States, such as machining operations which contribute significant value added to an article, are nonetheless found to be of foreign origin. By exempting these articles from the marking requirement, the committee corrects this inequity and brings the law in line with commercial reality.

With respect to coffee products, teas, and spices, the provision also conforms marking requirements with commercial reality. Since these products are blended from numerous imported sources, producers would be forced to constantly change labels to reflect import sources as each batch of product is labeled. The current marking requirement imposes substantial additional costs, while yielding information of little benefit to consumers.

Effective date.—Date of enactment.

Sec. 17. Liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties

Present law.—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), as amended outlines rules for protest against decisions of the Customs Service.

Explanation of provision.—The provision provides redress for an acknowledged Customs Service mistake concerning duties levied on the importation of certain warp knitting machines. In the fall of 1988, D&S International, an import-export business in Burlington, NC, imported four German-made warp knitting machines under a nondutiable HTS number. D&S subsequently sold the machines to a Venezuelan company which, finding the machines unsatisfactory, returned them to D&S. Upon reentry at Charleston, SC, the Customs Service mistakenly classified the machinery under a different HTS number at a duty of 4.4 percent. While D&S conveyed its protest to Customs in a timely manner, the company initially used the wrong Customs form. Before D&S could resubmit their protest on the correct forms, the 90-day deadline for filing protests passed. Eventually, D&S owed $28,000, plus interest.

Reason for change.—The provision instructs the Customs Service to treat the reentry of a single entry of four warp knitting machines from Venezuela as a duty-free entry, and to refund any duties and interest which the American company has paid as a result of the improper classification.

Effective date.—Date of enactment.

Sec. 18. Miscellaneous provisions

A. INTRODUCTION

1. Background and need for legislation

Section 310 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, required the USTR, within 30 days after the National Trade Estimates Report on foreign trade barriers is due, to identify trade liberalization priorities and to initiate section 301 investigations on priority practices for each priority foreign country. On March 3, 1994, President Clinton issued Executive Order 12901 which extended this procedure in a revised form through 1994. The Uruguay Round Agreements Act contained language extending this revised Super 301 procedure by statute for the year 1995.

2. Purpose and summary

Section 18 would extend Super 301 through the year 2000 because the committee believes it would be a mistake to let this trade policy tool expire.

3. Legislative history

The committee passed an amendment—voice vote, offered by Messrs. Levin and Houghton, adding section 18 to the chairman's reconciliation recommendations, which would extend Super 301 in its revised form, through the year 2000.

B. SECTION-BY-SECTION SUMMARY OF THE PROVISIONS RECOMMENDED BY THE COMMITTEE ON WAYS AND MEANS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

Present law.—Section 310 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988, required the USTR, within 30 days after the National Trade Estimates Report on foreign trade barriers was due in 1989 and 1990, to identify trade liberalization priorities and to initiate section 301 investigations on priority practices for each priority foreign country. On March 3, 1994, President Clinton issued Executive Order 12901 which extended this procedure in a revised form for 1994 and 1995. The Uruguay Round Agreements Act amended section 310 to extend this revised Super 301 procedure for the year 1995.

Under current Super 301, the USTR reviews trade expansion priorities and identifies priority foreign practices, the elimination of which is likely to have the most significant potential to increase U.S. exports. USTR must initiate section 310 investigations on all priority practices within 21 days of reporting to congressional committees and seek to negotiate agreements for elimination of the practices.

The report may also include a description of practices that may in the future warrant identification as priority foreign country practices, as well as a statement about other practices that were not identified because they are already being addressed by provisions of U.S. trade law, existing bilateral trade agreements, or in trade negotiations, and progress is being made toward their elimi-

nation. The normal section 301 authorities, procedures and time limits, and other requirements apply to investigations carried out under this section.

Explanation of provision.—Section 18 would extend Super 301 in its revised form, through the year 2000.

Reason for change.—The committee believes that it would be a mistake to let Super 301 expire this year. The Super 301 process is an important tool in U.S. trade policy to achieve expanded useful opportunities for U.S. goods and services in foreign markets through the elimination of foreign trade barriers and unfair trade practices. The threat of Super 301 provides important and effective leverage with foreign countries and has worked successfully to obtain agreements with several countries on priority trade practices affecting U.S. exports in major product sectors.

Super 301 has actually been applied with respect to countries as diverse as Japan, Brazil, and India, and the threat of Super 301 has opened markets in an even broader range of countries. In 1994, for example, Super 301 was useful in beginning to open Japan's telecommunications, medical products, insurance, flat glass, and automotive markets.

II. Subtitle B—Generalized System of Preferences

A. INTRODUCTION

1. Purposes and summary

Title V of the Trade Act of 1974 grants authority to the President to provide duty-free treatment on imports of eligible articles from designated beneficiary developing countries and territories, subject to certain conditions and limitations. This authority expired on July 31, 1995.

Title V specifies criteria for determining GSP country and product eligibility and limitations on the extension of GSP treatment. The program was implemented on January 1, 1976 under Executive Order 11888. Relatively minor amendments were made under the Tax Reform Act of 1976 and the Trade Agreements Act of 1979. The program has been extended several times. Title V of the Trade Act of 1984 renewed the GSP program until July 4, 1993, with significant amendments effective on January 4, 1985, particularly in the criteria for designating beneficiary countries and limitations on duty-free treatment. The program was extended for 15 months, until September 30, 1994 by the Omnibus Budget Reconciliation Act of 1993, and further extended for 10 months by the Uruguay Round Agreements Act.

The GSP program provides unilateral, nonreciprocal duty-free treatment to about 4,500 articles from 148 beneficiary developing countries and territories to assist their economic development and increase diversification of their economies through preferential market access. The Ways and Means Committee believes that this program, with the modest reforms provided for in the recommendations, will continue to further three major policy goals: First, to foster economic development in developing countries through increased trade rather than foreign aid; second, to promote U.S. trade interests by encouraging beneficiaries to open their markets

and comply more fully with international trading rules; and third, to help maintain U.S. international competitiveness by lowering costs for U.S. business, as well as lowering prices for American consumers.

2. Background and need for legislation

The concept of the GSP program was first proposed in 1964 at the United Nations Conference on Trade and Development [UNCTAD]. Developing countries maintained that one of the major impediments to their economic growth and development was their inability to compete on an equal basis with developed countries in the international trading system. In 1968, the United States joined other industrialized countries in supporting the concept of GSP.

GSP is a unilateral grant of duty-free treatment; developing countries are not required to extend reciprocal tariff reductions, but the statute does set forth certain conditions for designation of beneficiary status. The preferential and unilateral aspects of GSP are an exception to the most-favored-nation and nondiscrimination principles of the General Agreement on Tariffs and Trade [GATT] and the World Trade Organization. In order to implement their GSP systems, the developed countries had to obtain a waiver of these principles of the GATT. A 10-year MFN waiver was granted in June 1971 which provided that GSP schemes must be generalized, nondiscriminatory and nonreciprocal. This waiver was extended on a permanent basis in the 1979 GATT Tokyo Round Agreements, and was approved by Congress in the context of the Trade Agreements Act of 1979 (Public Law 96–39).

On July 20, 1994 the Ways and Means Committee informally approved a number of relatively minor changes to the GSP statute which were proposed by the administration with the aim of simplifying and improving an extended program for inclusion in the Uruguay Round Agreements Act. However, the Uruguay Round Agreements Act (Public Law 103–465) submitted by the President for congressional approval under fast track procedures did not include these reforms and simply reauthorized the current GSP statute, without change, for 10 months until July 31, 1995.

3. Legislative history

On February 27, 1995, the Subcommittee on Trade held a public hearing on extending GSP. The subcommittee received testimony in support of extending GSP from the administration and from companies and associations representing exporter, importer, economic development, and consumer interests.

H.R. 1654, "The GSP Renewal Act of 1995" was introduced on May 17, 1995, by Mr. Crane and Mr. Rangel. On May 18, the Subcommittee on Trade considered H.R. 1654 in markup session and ordered the bill favorably reported, by a recorded vote (13-to-0), to the full Committee on Ways and Means, without amendment. The administration testified in support of the bill.

On September 13, 1995 the full committee considered the text of H.R. 1654, as amended, as subtitle B of the Trade Title of Chairman Archer's recommendations for inclusion in the budget reconciliation legislation. The full committee ordered favorably re-

ported the text of the recommendations, to the Committee on the Budget, with four amendments, by voice vote.

B. SUMMARY OF THE PROVISIONS RECOMMENDED BY THE COMMITTEE ON WAYS AND MEANS

The reconciliation recommendations, as amended, would reauthorize the Generalized System of Preferences Program for 2½ years through December 31, 1997. So that there will be no gap in duty-free treatment provided under the GSP program, the recommendations would provide for refunds upon request of any duty paid between July 31, 1995, and date of enactment.

In general, the recommendations would make modest reforms and technical changes to title V of the Trade Act of 1974, which are intended to simplify and improve the administration of the GSP program. For example, the recommendations would codify a 3-year rule whereby specific products may only be considered for addition to the GSP Program every third year, following formal consideration and denial of that article. The recommendations would exclude high-income countries from GSP and would have the effect of reducing the per capita gross national product [GNP] limit from $11,800 to $8,600, a number which would be indexed. Beneficiary countries that exceed the per capita GNP limit must be removed from the GSP Program. The President would be required to request public comment before graduating a country from eligibility, except in exceptional circumstances.

The recommendations also contain new authority, which was requested by the administration, to designate any article from a least developed developing country [LDDC], if the President determines that the article is not import sensitive in the context of imports from LDDC's. This authority does not apply to statutorily exempt articles such as textiles and footwear. Watches would no longer be on the list of products excluded from eligibility under the program.

The recommendations would reduce the competitive need limit [CNL] in the expired law from about $108 million to $75 million, to be increased by $5 million annually, but would retain the competitive need waiver authority. A beneficiary country that exceeds the CNL on a particular product would lose GSP on that product, but under certain circumstances the President could waive the CNL and restore the product to GSP for that country. Subtitle B would also set the de minimus waiver level at $13 million which will be increased by $500,000 annually under a new indexing formula.

Finally, the recommendations would update discretionary criteria for GSP eligibility to clarify that adequate and effective protection of intellectual property rights may not be provided, even if the beneficiary country is complying with the Uruguay Round Agreement Act on trade related intellectual property rights. In determining whether to designate a country for GSP eligibility, the President would be required to consider the extent to which a country is cooperating in preventing both the proliferation of nuclear weapons and illegal drug trafficking.

C. SECTION-BY-SECTION SUMMARY OF THE PROVISIONS RECOMMENDED BY THE COMMITTEE ON WAYS AND MEANS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

Sec. 21. Short title

Explanation of provision.—Section 21 of the reconciliation recommendations provide that the Act may be cited as the "Generalized System of Preferences Renewal Act of 1995."

Sec. 22. Generalized system of preferences

I. Authority to extend preferences

Present law.—Section 501 of the Trade Act of 1974 authorizes the President to proclaim duty-free treatment for any eligible articles from any beneficiary country in accordance with the provisions of title V.

Explanation of provision.—The recommendations make no change to this section of title V.

II. Designation of beneficiary developing countries [BDC's]

A. Definition of country

Present law.—Section 502 of the Trade Act of 1974 currently sets out both the procedures for designating countries as Beneficiary Developing Countries [BDC's] and the conditions for such designation. This section establishes conditions for designation which are mandatory and others which are discretionary. With regard to the mandatory conditions, the President is prohibited from designating any country for GSP benefits which is a developed country listed in section 502(b). The term "country" is defined as any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands.

Explanation of provision.—The recommendations amend the definition of "country" to include any territory.

Reason for change.—This change makes clear that the President has the authority to designate territories such as the territory of the West Bank and Gaza Strip as eligible for GSP benefits.

B. Ineligible countries

Present law.—Under section 502(b), the President is prohibited from designating a statutory list of countries as BDC's: Australia, Austria, Canada, European Union [EU] member states, Finland, Iceland, Japan, Monaco, New Zealand, Norway, Sweden, and Switzerland.

Explanation of provision.—The recommendations would delete the reference to Austria, Finland, and Sweden.

Reason for change.—Austria, Finland, and Sweden are now EU member states as a result of enlargement of the European Union on January 1, 1995.

C. Mandatory conditions

Present law.—Under section 502(c) the President is prohibited from designating as a BDC a country which:

(1) is a Communist country, unless (a) its products receive nondiscriminatory [MFN] treatment, (b) it is a GATT contracting party and a member of the IMF, and (c) it is not dominated or controlled by international communism;

(2) is an OPEC member, or a party to another arrangement and participates in action the effect of which is to withhold supplies of vital commodity resources from international trade or raise their price to an unreasonable level and to cause disruption of the world economy;

(3) affords reverse preferences having or likely to have a significant adverse effect on U.S. commerce, unless the President receives satisfactory assurances of elimination before January 1, 1976;

(4) has nationalized or expropriated U.S. property, or taken similar actions, unless compensation is made, being negotiated, or in arbitration;

(5) fails to recognize as binding or enforce arbitral awards in favor of U.S. citizens;

(6) aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism;

(7) has not taken or is not taking steps to afford internationally recognized worker rights to its workers.

Explanation of provision.—The recommendations retain present law, except, with respect to mandatory conditions:

On (1)(b), replace "is a GATT contracting party" with "is a member of the World Trade Organization.";

On (2), delete the reference to OPEC member and the exemption authority;

On (3), delete the satisfactory assurances exemption for reverse preferences.

Reason for change.—These changes update the statute to: First, reflect the establishment of the World Trade Organization and; second, delete anachronistic references to OPEC and the date of January 1, 1976. It continues to be the view of the committee that BDC's should not provide discriminatory preferential advantages to developed countries at the same time the United States provides duty-free access for their imports.

The committee notes the case initiated under section 301 of the Trade Act of 1974, as amended, against the export practices of Costa Rica and Columbia which have implemented the Framework on Bananas, dated March 29, 1994, in disregard of objections by the United States. The committee also notes that the U.S. Trade Representative has made a preliminary section 301 decision that discriminatory licensing under the European Union banana import regime adversely affects U.S. economic interests. The committee encourages USTR to exercise authority available, including discretionary authority extended by these recommendations, to resolve problems of trade discrimination experienced by U.S. banana companies as a result of the framework agreement. If substantial progress is not made the committee intends to revisit this issue at the appropriate time.

The committee wishes to highlight its concern about unresolved commercial disputes where a foreign government is a party. The

committee notes that GSP beneficiaries must satisfy a number of eligibility requirements to qualify for continued GSP privileges, and emphasizes that section 502(b)(2)(D) of the GSP statute provides that a country that is a party to an unresolved commercial dispute involving a U.S. citizen or corporation shall no longer receive GSP privileges, except under specified conditions. The committee expects the administration will use all reasonable means to urge the Government of the Dominican Republic to resolve a commercial dispute involving the liquified petroleum gas terminal operated under contract with the Dominican Republic by Western Energy, Inc.

D. Discretionary criteria

Present law.—Under section 502(c) the President must take into account a list of factors in determining whether to designate a country a BDC, including whether or not other major developed countries are granting GSP to the country, whether or not the country has taken or is taking steps to afford its workers internationally recognized worker rights, and the extent to which the country is providing adequate and effective intellectual property protection.

Explanation of provision.—The recommendations substitute "whether or not" for "the extent to which" in the intellectual property rights criteria, and to clarify that such protection may not be provided notwithstanding compliance with the Uruguay Round TRIP's Agreement. The recommendations also add new discretionary criteria for country designation. In determining whether to designate any country as a beneficiary developing country under this title, the President must take into account the extent to which such country fails to cooperate with the United States in preventing the proliferation of nuclear weapons, nuclear weapons components, and nuclear weapons delivery systems and in preventing illegal drug trafficking.

Reason for change.—These changes reflect the committee's view that the fact that a country is in compliance with the obligations of Uruguay Round Trade Related Intellectual Property Rights Agreement does not necessarily indicate that it is providing adequate and effective intellectual property protection for purposes of receiving benefits under the GSP program.

It is the committee's view that in determining whether to designate any country as a beneficiary country, the President should take into account the extent to which a country cooperates in preventing the proliferation of nuclear weapons, nuclear weapons components and nuclear weapons delivery systems, and in preventing illegal drug trafficking. The committee believes that these two criteria for granting countries GSP benefits provide the administration a useful additional discretionary tool to achieve national goals of halting the proliferation of nuclear weapons and promoting the cooperation of foreign governments in preventing illegal drug trade. Specific reference to illegal drug trafficking is consistent with the mandate under the Narcotics Control Trade Act to withdraw GSP benefits from countries which do not cooperate with the United States in preventing such trade.

E. Graduation of beneficiary countries

Present law.—If the per capita GNP of any BDC for any year exceeds a dollar limit—$11,800 in 1994—indexed annually under a formula from $8,500 in 1984, then that country is subject to a 25, rather than 50, percent competitive need [CN] import share limit on all eligible articles for the following 2 years. Thereafter, the country shall not be treated as a BDC.

Explanation of provision.—The recommendations substitute "high income" country as designated by the World Bank in any calendar year—$8,600 per capita GNP in 1994—for the per capita GNP indexing formula in current law. While retaining a transition period of up to 2 years for country graduation, the recommendations eliminate a statutory application of the 25 percent competitive need limit during this 2-year period.

Reason for change.—In 1994, the top 10 BDC's accounted for over 80 percent of U.S. GSP imports. In light of the committee's concern that a large share of GSP imports come from a small number of the more advanced developing countries, the committee concurs with the administration's recommendation to lower the per capita income threshold from approximately $11,800 to $8,600. While statistics indicate that very few countries would be affected by this change immediately, the result will be to graduate countries sooner from GSP than would be the case under current law. Using a readily available definition of high income country will make the administration of the program more transparent and predictable for users of the program.

While the administration retains discretion to impose a 25 percent competitive need limit for countries which have reached the per capita GNP limit, the recommendations simplify the law by eliminating this as a statutory requirement.

III. Designation of eligible articles (section 503)

A. Exempted products

Present law.—Under section 503, the President may not designate any article as GSP eligible within the following categories of import-sensitive articles:

(1) textile and apparel articles which are subject to textile agreements;

(2) watches, except watches entered after June 30, 1989, that the President determines will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or U.S. insular possessions;

(3) import-sensitive electronic articles;

(4) import-sensitive steel articles;

(5) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not GSP eligible articles on April 1, 1984;

(6) import-sensitive semi-manufactured and manufactured glass products; and

(7) any other articles the President determines to be import sensitive in the context of GSP.

Explanation of provision.—The recommendations retain all provisions of present law, except, with respect to statutory exemptions:

On (1), replace present provision with exemption of textile and apparel articles which were not GSP eligible on January 1, 1994;

On (2), delete statutory exemption for watches;

On (5), apply exemption to footwear and related articles which were not GSP eligible on January 1, 1995.

Reason for change.—These changes delete anachronistic dates and ensure that all products, except watches, which are currently excluded from GSP eligibility remain excluded.

Deleting watches from the list of products statutorily excluded from GSP eligibility reflects the committee's understanding that major changes have taken place in the U.S. watch industry in recent years. Under the provision, the President would conduct an administrative review of a petition filed to add watches that would include a hearing, and the collection of public comment and ITC advice, before designating watches as an eligible product under the program.

B. Three-year rule

Present law.—Each year USTR conducts an interagency review process in which products can be added to or removed from the GSP program, or in which a country's compliance with eligibility requirements can be reviewed. The reviews are normally based on petitions filed by interested parties, but may also be self-initiated.

Explanation of provision.—The recommendations prohibit reconsideration of an article for designation, for 3 years following formal consideration and denial of that article.

Reason for Change.—The committee wants to ensure that reviews of petitions and self-initiation of investigations to add the same item to the list of eligible articles occur no more than once every 3 years. Petitions to remove products from the list of eligible articles shall continue to be entertained annually. This statutory provision will prevent violations of the 3-year rule limiting reviews that the Ways and Means Committee recommended in 1984, in order to reduce the burden on U.S. industry.

In promulgating regulations for this program as reauthorized, it is the committee's view that the President should specify a mandatory core of information that all product petitions must contain. Petitions for the addition of products to the list of eligible articles shall be accepted for review only if they include such information as is reasonably available to the petitioner concerning, for example, the petitioner's—beneficiary developing—country's industry, the industry's capacity for production, its competitiveness with respect to an article and such other information as the President may require.

In order to provide that nations which are found to be competitive producers of a product can be denied benefits before the process of reviewing petitions concludes, the committee recommends the following addition to the GSP regulations: "If at any time prior to or during the review of a petition to designate a new product eligible for GSP, the Trade Policy Staff Committee [TPSC] has determined that a beneficiary country is competitive in that product, as

stipulated in the Statement of Administrative Action that accompanied the Uruguay Round Agreements Act, to a degree that GSP benefits are not warranted for that country, it shall make such a determination by notice in the Federal Register. In assessing a country's competitiveness, the TPSC will consider such items as prices, production capacity, U.S. market share and performance in equivalent markets of producers operating within a beneficiary developing country.'' The committee believes that this addition to the GSP regulations will lessen the burden on U.S. interests in responding to petitions.

The Committee also notes that the statement of administrative action [SAA] also addresses the need for the administration to verify information from foreign producers in certain cases. In this vein, the committee recommends the following addition to the GSP regulations: ''In cases where the Trade Policy Staff Committee has a reasonable doubt (including on the basis of comments from interested parties) about the accuracy of information in a petition that is material to a finding of import sensitivity, the Trade Policy Staff Committee shall request a verification of such information by the U.S. Embassy (or other U.S. Government representative) in the country in question. The information received in response to the request shall be a matter of public record to the degree that such information is not classified by the U.S. Government or is not information exempt from public inspection as described in section 2007.7 of the GSP regulations.

C. Least developed developing countries [LDDC's]

Present law.—No provision.

Explanation of provision.—The recommendations add authority for the President to designate any article that is the growth, product, or manufacture of a least developed developing country as an eligible article with respect to imports from LDDC's, if, after receiving advice from the International Trade Commission, the President determines such article is not import sensitive in the context of imports from LDDC's. This authority does not apply to statutorily exempt articles. The President shall notify Congress at least 60 days in advance of LDDC designations. LDDC designations will be based on overall economic and discretionary criteria for country designation under the program.

Reason for change.—The committee believes that this additional authority which is sought by the administration will promote the goal of expanding the share of GSP benefits that can be granted to the poorest countries in the world. While a product may be import sensitive in the context of all GSP imports, if imports from only least developed developing countries are considered, import sensitivity may not be a problem. This authority should have the effect of giving an additional competitive opportunity to LDDC's in certain situations where their products are not able to compete with imports from the most advanced developing countries, and thereby expand the share of GSP imports from LDDC's.

D. Limits on preferential treatment

1. General authority

Present law.—Under section 504, the President may withdraw, suspend, or limit GSP duty-free treatment with respect to any article or any country, except that no rate of duty may be established other than the rate which would otherwise apply—the MFN rate, after considering the overall GSP and discretionary BDC designation factors. The President shall withdraw or suspend the BDC designation of any country if he determines that, as a result of changed circumstances, the country would be barred from designation.

Explanation of provision.—The recommendations add a requirement that, except in exceptional circumstances, the President may not take action to withdraw, suspend, or terminate or limit GSP treatment with respect to any country without first providing a period for the submission of public comments.

Reason for change.—The purpose of this change is to ensure that the business community and beneficiary countries are not surprised by the graduation of beneficiary countries which have not reached the statutory per-capita-income threshold that mandates automatic graduation. Under title V the President has broad authority to designate countries as beneficiary developing countries, if such countries satisfy the statutory eligibility requirements. The President also has broad authority to withdraw, suspend, or limit GSP privileges for beneficiary countries that no longer meet the statutory eligibility requirements or that are found to be sufficiently developed and globally competitive such that the country no longer needs tariff preferences to compete in the U.S. market. The new language is intended to clarify the committee's view that advice from U.S companies and other public comments should be considered by the President before he exercises his discretionary authority to graduate these countries on the basis of their international competitiveness. The committee recognizes, however, that the formal solicitation of public comments may not be feasible in exceptional circumstances, where sudden developments warrant immediate Presidential action, or where delay would jeopardize critical U.S. foreign policy objectives. The committee expects that, in nearly all cases, public comments would be solicited and considered prior to any action being taken under this section. If exceptional circumstances exist and no formal public comments are solicited, the committee expects that the President would make every effort to consult with the private sector informally and to advise the Congress prior to taking any action.

2. Reporting requirement

Present law.—The President shall, as necessary, advise the Congress, and by no later than January 4, 1988, submit to the Congress a report on the application of the overall GSP and discretionary country designation factors, and the actions the President has taken to withdraw, suspendse where, or limit the GSP treatment with respect to any country which has failed to adequately meet the discretionary designation factors.

Explanation of provision.—The recommendations delete this reporting requirement.

Reason for change.—The statutory reporting requirement has been met. Section 2 of the recommendations would require a report to Congress on the operation of the program by July 31, 1997.

3. Competitive need limits

Present law.—Whenever the President determines that annual exports by any BDC to the United States of a GSP eligible article: No. 1 exceed a dollar limit—$114 million in 1994—based on $25 million adjusted annually relative to changes in the U.S. GNP since 1974, or No. 2 equal or exceed a 50-percent share of the total value of U.S. imports of the article, then, not later than July 1 of the next year, such a country is not treated as a BDC with respect to such article.

Explanation of provision.—The recommendations reduce the basic competitive need limit to $75 million for any year beginning January 1, 1995, and substitute a standard annual increase of $5 million for the indexing formula in current law. The recommendations preserve the 50-percent market share competitive need limit.

Reason for change.—Reducing the basic competitive need limit will have the effect of increasing the opportunities for countries other than the top beneficiaries to obtain a larger share of GSP benefits. The standard annual increase of $5 million a year is a simplification of current law which will make the implementation of competitive need limits more predictable for users of the program.

4. General review

Present law.—Not later than January 4, 1987, and periodically thereafter, the President must conduct a general review of eligible articles and, if he determines that a BDC has demonstrated a sufficient degree of competitiveness relative to other BDC's on any eligible article, then a lower CN dollar limit—$41.9 million in 1993, indexed annually from 1984 base—and 25-percent total import share limit apply.

Explanation of provision.—The recommendations delete the general review requirement and the lower competitive need limits.

Reason for change.—While the administration would retain authority to conduct reviews of the program it considers appropriate, the committee believes this should be a matter left up to the judgment of the administration. The committee believes that resources used to conduct a general review of all products on GSP may be better used elsewhere in administration of the program. Deleting the lower competitive need limit is another change which simplifies the administration of the program.

IV. Waiver authority

A. General authority

Present law.—The President may waive the dollar and import share CN limits on any eligible article of any BDC if he first, receives ITC advice on whether any U.S. industry is likely to be adversely affected by the waiver; second, determines, based on the

overall GSP and discretionary country designation considerations and the ITC advice, that the waiver is in the U.S. national economic interest; and third, publishes the determination in the Federal Register.

Explanation of provision.—The recommendations retain the present waiver authority.

B. Historical preferences

Present law.—There are several statutory circumstances in which the President may waive competitive need [CN] limits. Except where sufficient competitiveness has been demonstrated, the President may waive CN limits if: First, there has been a historical preferential trade relationship between the United States and the country; second, there is a treaty or trade agreement in force covering our bilateral economic relations; and third, the country does not maintain unfair trade barriers on U.S. commerce.

Explanation of provision.—The recommendations would delete the historical preferences provision.

Reason for change.—This waiver authority, which was designed for a possible exemption of the Philippines, has never been used and is no longer necessary.

C. No domestic production

Present law.—The import share limit does not apply to any eligible article if a like or directly competitive article is not produced in the United States as of January 3, 1985.

Explanation of provision.—Under the recommendations, the import share limit does not apply if the article is not produced in the United States as of January 1, 1995.

Reason for change.—This change is made to revise an anachronistic date.

D. De minimis imports

Present law.—The import share limit may be disregarded if total U.S. imports of the eligible article during the preceding year do not exceed a de minimis amount of $5 million adjusted annually—$13.4 million in 1994—according to changes in U.S. GNP since 1979.

Explanation of provision.—The recommendations retain the de minimis import provision, but substitute $13 million in 1995 and a standard annual increase of $500,000 beginning January 1, 1996 for the indexing formula in current law. The recommendations provide for the refund of duties paid on buffalo leather from Thailand during the month of July 1995.

Reason for change.—The first change is intended to simplify and make more predictable the calculation of the level of imports deemed to be de minimis. The refund of duties described above relates to the restoration of GSP benefits for buffalo leather from Thailand under the de minimis waiver. On July 28, 1995 the President restored GSP treatment to this product, but not for the time period that included the month of July 1995. The committee believes that there should be no break in duty-free treatment for this product.

E. Waiver trade limits

Present law.—The President may not exercise the waiver authority in any year on imports of eligible articles exceeding: First, 30 percent of total GSP duty-free imports during the preceding year, or second, 15 percent of total GSP duty-free imports during the preceding year from BDCs which had (a) a per capita GNP of $5,000 or more, or (b) exported to the United States more than 10 percent of total GSP duty-free imports during that year.

Explanation of provision.—The recommendations delete waiver trade limits described above.

Reason for change.—The committee believes that its goal of simplifying the statute is served by removing this overly detailed direction to the administration regarding the use of GSP waiver authority.

V. Provisions regarding termination, reports, and agriculture exports

A. Termination

Present law.—No duty-free treatment shall remain in effect after July 31, 1995.

Explanation of provision.—The recommendations would reauthorize the program for 2½ years to terminate on December 31, 1997. The recommendations provide for refunds, upon request of the importer, of any duty paid between July 31, 1995 and the date of enactment.

Reason for change.—The committee believes that recent short-term extensions of the program have been highly disruptive to U.S. companies who rely on GSP products, and to the economic development of beneficiary countries. Budgetary effects of the program, however, continue to preclude a longer extension of the program. So that there will be no gap in duty-free treatment, the recommendations provide for a retroactive extension of the program.

B. Report on operation of the program

Present law.—On or before January 4, 1990, the President must submit a full and complete report to the Congress on the operation of the program.

Explanation of provision.—The recommendations require this same report to be submitted by July 31, 1997.

Reason for change.—It is the view of the committee that periodic reports on the operation of the program continue to be useful to Congress and interested parties.

C. Report on worker's rights

Present law.—The President must submit an annual report to the Congress on the status of internationally recognized workers' rights within each BDC.

Explanation of provision.—The recommendations retain an annual report on the status of workers' rights within each BDC.

Reason for change.—It is the view of the committee that this annual report continues to be useful in evaluating progress toward the establishment of workers' rights in beneficiary countries.

D. Agriculture exports

Present law.—Section 506 requires that appropriate U.S. agencies assist BDC's in developing and implementing measures designed to assure that the production of agricultural sectors of their economies is not directed to export markets, to the detriment of the foodstuff production for their citizens.

Explanation of provision.—The recommendations would delete this section.

Reason for change.—Consistent with the goal of simplifying and improving the program, the Committee believes that this use of agency resources is no longer justified.

III. Subtitle C—Trade Adjustment Assistance

A. INTRODUCTION

1. Purpose and summary

The recommendations of the Committee on Ways and Means respond to the House Budget Committee's recommendations to eliminate Trade Adjustment Assistance [TAA] for workers. The recommendations extend the reauthorization of general TAA for workers and TAA for firms through September 30, 2000, after which both programs are terminated. The NAFTA-related TAA program would terminate on September 30, 1998, as under current law. The recommendations also require that workers under general TAA enter approved training programs in order to receive further cash benefits, as they are required to do under the NAFTA Worker Security Act. The Secretary of Labor is permitted to issue waivers of the training requirement only if training is not available to eliglble unemployed workers. Lastly, relocation benefits for workers are terminated under the general TAA program and the NAFTA-related TAA program. The effective date for these changes is September 30, 1996.

2. Background and need for legislation

On May 18, 1995, the House Budget Committee recommended eliminating trade adjustment assistance for workers on the grounds that there is no justification for providing more assistance to workers whose unemployment results from foreign competition than to those whose unemployment results from domestic competition. The President's fiscal year 1996 budget proposed to terminate TAA for firms. For these reasons, the committee undertook a full review of not only general TAA and NAFTA-related TAA, but also TAA for firms. The committee believes these programs should be continued for a specific period of time.

3. Legislative history

On May 16, 1995, the Human Resources Subcommittee held a hearing on consolidation of job training programs, including TAA (WMCP: 104–8).

On June 12, 1995, Trade Subcommittee Chairman Crane requested written comments on the TAA programs for workers and firms. The closing date for offering such written comments was

June 30, 1995. The comments received supported continuation of these programs.

On September 21, 1995, the Committee on Ways and Means ordered favorably reported to the House Committee on the Budget, by voice vote, the recommendations to modify trade adjustment assistance for inclusion in budget reconciliation legislation.

The committee believes that the existing waiver authority has been used too frequently but that some flexibility in the application of the training requirement is necessary so that workers are not penalized and are able to receive assistance if approved training is not available. If such training subsequently becomes available, the secretary is required to revoke the waiver and the worker must enter training for cash benefits to continue.

B. SECTION-BY-SECTION SUMMARY OF THE PROVISIONS RECOMMENDED BY THE COMMITTEE ON WAYS AND MEANS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

Sec. 12201. Modification of trade adjustment assistance

(a) Requirement of training

Present law

Under chapter 2 of title II of the Trade Act of 1974, eligible workers certified by the Secretary of Labor are entitled to TAA benefits including training, job search, and relocation allowances. Qualified workers in approved training are entitled to receive trade adjustment allowance [TRA] payments following the exhaustion of unemployment insurance [UI] equal to their weekly UI amount for up to 52 weeks of UI and TRA combined. Workers may receive an additional 26 weeks of TRA benefits to complete approved training. The Secretary of Labor may waive the training requirement under the general TAA program if approved training is not "feasible or appropriate." The NAFTA TAA program does not authorize waivers of the training requirements.

Explanation of provision

The recommendations require workers under the general and NAFTA-related TAA programs to enter approved training programs in order to receive TRA payments. The Secretary of Labor may issue a waiver of the training requirement for general TAA only if training is not "available."

Reason for change

The recommendations harmonize the training requirements under general TAA with NAFTA-related TAA and tighten the requirement that benefit recipients be enrolled in training under general TAA. The recommendations require workers to enter approved training programs in order to receive cash benefits under general TAA as currently is the case under NAFTA-related TAA. The Secretary of Labor is permitted to issue waivers of the training requirement under general TAA only if training is not available.

Effective date

October 1, 1996.

(b) Termination of relocation allowances

Present law

Relocation allowances are available to eligible displaced workers under both general TAA and NAFTA-related TAA.

Explanation of provision

The recommendations terminate relocation allowances under both general TAA and NAFTA-related TAA.

Reason for change

The recommendations end a system in which workers unemployed due to foreign competition are relocated at the expense of the Federal Government while those unemployed due to domestic competition are not eligible for such assistance.

Effective date

October 1, 1996.

(c) Termination of program

Present law

General trade adjustment assistance for workers, the NAFTA-related TAA program, and trade adjustment assistance for firms are authorized through fiscal year 1998 and terminate as of September 30, 1998.

Explanation of provision

The committee recommendations authorize general TAA for workers and TAA for firms through fiscal year 2000, and terminate these programs after September 30, 2000.

Reason for change

This timeframe coincides with the renewal period proposed for extension of fast-track trade agreement authority under H.R. 2371.

Effective date

October 1, 1996.

CHANGES IN EXISTING LAW MADE BY TITLE III OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF ACT OF 1930

TITLE III—SPECIAL PROVISIONS

Part I—Miscellaneous

* * * * * * *

SEC. 304. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

(a) * * *

* * * * * * *

(f) MARKING OF METAL FORGINGS.—The marking requirements of subsections (a) and (b) shall not apply to—

(1) metal forgings that—

(A) are imported for processing into finished hand tools in the United States, and

(B) have not been improved in condition beyond rough burring, trimming, grinding, turning, hammering, chiseling, or filing; and

(2) hand tools made from metal forgings described in paragraph (1).

(g) MARKING OF CERTAIN COFFEE AND TEA PRODUCTS.—The marking requirements of subsections (a) and (b) shall not apply to articles described in subheading 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, or 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

(h) MARKING OF SPICES.—The marking requirements of subsections (a) and (b) shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000, 1211.90.8040, 1211.90.8050, 1211.90.8090, 2006.00.3000, 2918.13.2000, 3203.00.8000, 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

[(f)**]** *(i)* ADDITIONAL DUTIES FOR FAILURE TO MARK.—If at the time of importation any article (or its container, as provided in subsection (h) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and

paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer.

[(g)] *(j)* DELIVERY WITHHELD UNTIL MARKED.—No imported article held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (f) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

[(h)] *(k)* TREATMENT OF GOODS OF A NAFTA COUNTRY.—

(1) APPLICATION OF SECTION.—In applying this section to an article that qualifies as a good of a NAFTA country (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) under the regulations issued by the Secretary to implement Annex 311 of the North American Free Trade Agreement—

* * * * * * *

[(i)] *(l)* PENALTIES.—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this Act shall—

(1) upon conviction for the first violation of this subsection, be fined not more than $100,000, or imprisoned for not more than 1 year, or both; and

* * * * * * *

Part II—United States Tariff Commission

* * * * * * *

SEC. 313. DRAWBACK AND REFUNDS.

(a) * * *

* * * * * * *

(r) FILING DRAWBACK CLAIMS.—

(1) * * *

* * * * * * *

(3)(A)(i) Subject to clause (ii), the Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

(I) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

(II) the claimant files a request for such extension with the Customs Service within one year from the last day of the 3-year period referred to in paragraph (1).

(ii) In the case of a major disaster occurring on or after January 1, 1994, and before the date of the enactment of this paragraph—

(I) the Customs Service may extend the time for filing the drawback claim for a period not to exceed 1 year; and

(II) the request under clause (i)(II) must be filed not later than 1 year from the date of the enactment of this paragraph.

(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

(C) For purposes of this paragraph, the term "major disaster" has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(s) DESIGNATION OF MERCHANDISE BY SUCCESSOR.—

(1) * * *

(2) For purposes of subsection (j)(2), a drawback successor may designate—

(A) imported merchandise which the predecessor, before the date of succession, imported; or

(B) imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise for which the [successor] *predecessor* received, before the date of succession, from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the successor such merchandise;

as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.

* * * * * * *

SEC. 321. ADMINISTRATIVE EXEMPTIONS.

(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to—

(1) * * *

(2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed an amount specified by the Secretary by regulation, but not less than—

(A) * * *

(B) $200 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from

duty under subheading 9804.00.30, *9804.00.65*, or 9804.00.70 of this Act, or

* * * * * * *

TITLE IV—ADMINISTRATIVE PROVISIONS

Part I—Definitions and National Customs Automation Program

Subpart A—Definitions

SEC. 401. MISCELLANEOUS.

When used in this title or in Part I of Title III—

(a) * * *

* * * * * * *

(s) The term "reconciliation" means an electronic process, initiated at the request of an importer, under which the elements of an entry, other than those elements related to the admissibility of the merchandise, that are undetermined at the time of entry summary are provided to the Customs Service at a later time. A reconciliation is treated as an entry for purposes of liquidation, reliquidation, *recordkeeping,* and protest.

* * * * * * *

Part II—Report, Entry, and Unlading of Vessels and Vehicles

SEC. 431. MANIFEST—REQUIREMENT, FORM, AND CONTENTS.

(a) * * *

* * * * * * *

(c)(1) Except as provided in subparagraph (2), the following information, when contained in ⟦such manifest⟧ *a vessel manifest*, shall be available to public disclosure:

(A) * * *

* * * * * * *

Part III—Ascertainment, Collection, and Recovery of Duties

* * * * * * *

SEC. 484. ENTRY OF MERCHANDISE.

(a) REQUIREMENT AND TIME.—

(1) Except as provided in sections 490, 498, 552, ⟦553, and 336(j)⟧ *and 553*, one of the parties qualifying as "importer of record" under paragraph (2)(B), either in person or by an agent authorized by the party in writing, shall, using reasonable care—

(A) * * *

* * * * * * *

SEC. 504. LIMITATION ON LIQUIDATION.

(a) * * *

* * * * * * *

(d) REMOVAL OF SUSPENSION.—Except as provided in section 751(a)(3), when a suspension required by statute or court order is removed, the Customs Service shall liquidate the entry, *unless liquidation is extended under subsection (b)*, within 6 months after receiving notice of the removal from the Department of Commerce, other agency, or a court with jurisdiction over the entry. Any entry not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record.

SEC. 505. PAYMENT OF DUTIES AND FEES.

(a) * * *

* * * * * * *

(c) INTEREST.—Interest assessed due to an underpayment of duties, fees, or interest shall accrue, at a rate determined by the Secretary, from the date the importer of record is required to deposit estimated duties, fees, and interest to the date of liquidation or reliquidation of the applicable entry or reconciliation. Interest on excess moneys deposited shall accrue, at a rate determined by the Secretary, from the date the importer of record deposits estimated duties, fees, and interest *or, in a case in which a claim is made under section 520(d), from the date on which such claim is made,* to the date of liquidation or reliquidation of the applicable entry or reconciliation.

* * * * * * *

SEC. 508. RECORDKEEPING.

(a) * * *

* * * * * * *

(c) PERIOD OF TIME.—The records required by subsections (a) and (b) shall be kept for such periods of time as the Secretary shall prescribe; except that—

(1) no period of time for the retention of the records required under subsection (a) or (b)(3) may exceed 5 years from the date of entry, *filing of a reconciliation*, or exportation, as appropriate;

* * * * * * *

SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.

(a) AUTHORITY.—In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees, fees and taxes due or duties, fees, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for ensuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

(1) * * *

(2) summon, upon reasonable notice—

(A) * * *

* * * * * * *

(D) any other person he may deem proper; to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, as defined in subsection [(c)(I)(A)] *(d)(1)(A)*, and to give such testimony, under oath, as may be relevant to such investigation or inquiry; and

* * * * * * *

(b) REGULATORY AUDIT PROCEDURES.—

(1) * * *

* * * * * * *

(3) Except as provided in paragraph (5), if the estimated or actual termination date for an audit passes without the Customs Service auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the [appropriate regional commissioner] *officer designated pursuant to regulations*, who, upon receipt of such a request, shall provide for such a conference to be held within 15 days after the date of receipt.

(4) Except as provided in paragraph (5), the Customs Service auditor shall complete the formal written audit report within 90 days following the closing conference unless the [appropriate regional commissioner] *officer designated pursuant to regulations* provides written notice to the person being audited of the reason for any delay and the anticipated completion date. After application of any exemption contained in section 552 of title 5, United States Code, a copy of the formal written audit report shall be sent to the person audited no later than 30 days following completion of the report.

* * * * * * *

SEC. 515. REVIEW OF PROTESTS.—

(a) * * *

* * * * * * *

(d) If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate [district director] *port director* within 90 days after the date of the protest denial, void the denial of the protest.

* * * * * * *

SEC. 592. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE.

(a) PROHIBITION.—

(1) GENERAL RULE.—Without regard to whether the United States is or may be deprived of all or a portion of any [lawful duty] *lawful duty, tax, or fee* thereby, no person, by fraud, gross negligence, or negligence—

(A) * * *

* * * * * * *

(b) PROCEDURES.—

(1) PRE-PENALTY NOTICE.—

(A) IN GENERAL.—If the Customs Service has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, it shall issue to the person concerned a written notice of its intention to issue a claim for a monetary penalty. Such notice shall—

(i) * * *

* * * * * * *

(vi) state the estimated loss of [lawful duties] *lawful duties, taxes, and fees*, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

* * * * * * *

(c) MAXIMUM PENALTIES.—

(1) * * *

(2) GROSS NEGLIGENCE.—A grossly negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed—

(A) the lesser of—

(i) the domestic value of the merchandise, or

(ii) four times the [lawful duties] *lawful duties, taxes, and fees* of which the United States is or may be deprived, or

(B) if the violation did not affect the assessment of duties, 40 percent of the dutiable value of the merchandise.

(3) NEGLIGENCE.—A negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed—

(A) the lesser of—

(i) the domestic value of the merchandise, or

(ii) two times the [lawful duties] *lawful duties, taxes, and fees* of which the United States is or may be deprived, or

(B) if the violation did not affect the assessment of duties, 20 percent of the duitable value of the merchandise.

(4) PRIOR DISCLOSURE.—If the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, merchandise shall not be seized and any monetary penalty to be assessed under subsection (c) shall not exceed—

(A) if the violation resulted from fraud—

(i) an amount equal to 100 percent of the [lawful duties] *lawful duties, taxes, and fees* of which the United States is or may be deprived, so long as such person tenders the unpaid amount of the [lawful duties] *lawful duties, taxes, and fees* at the time of disclosure, or within 30 days (or such longer period as the Customs Service may provide) after notice by the Customs Service of its calculation of such unpaid amount, or

(ii) if such violation did not affect the assessment of duties, 10 percent of the dutiable value; or

(B) if such violation resulted from negligence or gross negligence, the interest (computed from the date of liquidation at the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1954) on the amount of [lawful duties] *lawful duties, taxes, and fees* of which the United States is or may be deprived so long as such person tenders the unpaid amount of the [lawful duties] *lawful duties, taxes, and fees* at the time of disclosure, or within 30 days (or such longer period as the Customs Service may provide) after notice by the Customs Service of its calculation of such unpaid amount.

The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge. For purposes of this section, a formal investigation of a violation is considered to be commenced with regard to the disclosing party and the disclosed information on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation of subsection (a) existed.

* * * * * * *

(d) DEPRIVATION OF LAWFUL DUTIES, TAXES OR FEES.—Notwithstanding section 514 of this Act, if the United States has been deprived of lawful duties, taxes, or fees as a result of a violation of subsection (a), the Customs Service shall require that such lawful duties, taxes [or fees be restored] *and fees be restored*, whether or not a monetary penalty is assessed.

* * * * * * *

SEC. 631. USE OF PRIVATE COLLECTION AGENCIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, *including section 3302 of title 31, United States Code, and subchapters I and II of chapter 37 of such title,* the Secretary, under such terms and conditions as the Secretary considers appropriate, shall enter into contracts and incur obligations with one or more persons for collection services to recover indebtedness arising under the customs laws and owed the United States Government, *and the expenses associated with recovering such indebtedness,* but only after the Customs Service has exhausted all administrative efforts, including all claims against applicable surety bonds, to collect the indebtedness.

* * * * * * *

ACT OF AUGUST 5, 1935

AN ACT To protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes.

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

TITLE I

* * * * * * *

[SEC. 7. In addition to any other requirement of law, every vessel, not exceeding five hundred net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred nor shall such bond be required. This section shall take effect on the sixtieth day following the enactment of this Act.]

* * * * * * *

SECTION 13031 OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) * * *

* * * * * * *

(5)(A) For fiscal years 1994, 1995, 1996, and 1997, for the arrival of each passenger aboard a commercial vessel or commercial aircraft from *a place* outside the customs territory of the United States, $6.50.

(B) For fiscal year 1998 and each fiscal year thereafter, for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in [subsection (b)(1)(A)] *subsection (b)(1)(A)(i)* of this section), $5.

* * * * * * *

[(b) LIMITATION ON FEES.—(1) No fee may be charged under subsection (a) of this section for customs services provided in connection with—

[(A) the arrival of any passenger whose journey—

[(i) originated in—

[(I) Canada,

[(II) Mexico,

[(III) a territory or possession of the United States, or

[(IV) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)), or

[(ii) originated in the United States and was limited to—

[(I) Canada,

[(II) Mexico,

[(III) territories and possessions of the United States, and

[(IV) such adjacent islands;

[(B) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates; or

[(C) the arrival of any ferry.

Subparagraph (A) shall not apply to fiscal years 1994, 1995, 1996, and 1997.]

(b) LIMITATIONS ON FEES.—(1)(A) No fee may be charged under subsection (a) of this section for customs services provided in connection with—

(i) the arrival of any passenger whose journey—

(I) originated in—

(aa) Canada,

(bb) Mexico,

(cc) a territory or possession of the United States, or

(dd) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5))), or

(II) originated in the United States and was limited to—

(aa) Canada,

(bb) Mexico,

(cc) territories and possessions of the United States, and

(dd) such adjacent islands;

(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

(iii) the arrival of any ferry; or

(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.

* * * * * * *

(4) [No fee]*(A) No fee* may be charged under subsection (a)(5) with respect to the arrival any passenger—

[(A)] *(i)* who is in transit to a destination outside the customs territory of the United States, and

[(B)] *(ii)* for whom customs inspectional services are not provided.

(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.

* * * * * * *

(8)(A) * * *

* * * * * * *

(D) The fee charged under subsection (a)(9) or (10) with respect to the processing of merchandise shall—

(i) * * *

* * * * * * *

(iv) in the case of merchandise classified under [subparagraph 9802.00.80 of such Schedules] *heading 9802.00.80 of such Schedule*, be applied to the full value of the merchandise, less the cost or value of the component United States products; [and]

(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise[.]*; and*

(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).

With respect to merchandise that is classified under subheading 9802.00.60 or heading 9802.00.80 of such Schedule and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used

by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.

* * * * * * *

(9)(A) With respect to the processing of merchandise that is informally entered or released at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required:

(i) In the case of a [centralized hub facility or] small airport or other facility—

(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31, United States Code or section 236 of the Trade and Tariff Act of 1984; and

(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I).

(ii) In the case of an express consignment carrier [facility—] *facility or centralized hub facility—*

(I) an amount, for which the Customs Service shall be reimbursed under section 524 of the Tariff Act of 1930, equal to the cost of the [customs inspectional] services provided by the Customs Service [at the facility] *for the facility* during the fiscal year; and

(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement made under subclause (I).

(B) For purposes of this paragraph:

(i) The terms "centralized hub facility" and "express consignment carrier facility" have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations[, as in effect on July 30, 1990]. *Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).*

(ii) The term "small airport or other facility" means any airport or facility to which [section 236 of the Tariff and Trade Act of 1984] *section 236 of the Trade and Tariff Act of 1984* applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year.

* * * * * * *

CUSTOMS AND TRADE ACT OF 1990

* * * * * * *

TITLE III—TARIFF PROVISIONS

* * * * * * *

PART 2—MISCELLANEOUS PROVISIONS

* * * * * * *

SEC. 484E. FOREIGN REPAIR OF VESSELS.

(a) * * *

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) * * *

(2) any entry made—

(A) on or after the date of enactment of this Act, and

(B) on or before [December 31, 1992] *December 31, 1994*; and

* * * * * * *

SEC. 484H. CANADIAN LOTTERY MATERIAL.

(a) * * *

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered[, or withdrawn from warehouse for consumption,] *for transportation in bond* on or after the date that is 15 days after the date of enactment of this Act.

* * * * * * *

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

* * * * * * *

SEC. 212. BENEFICIARY COUNTRY.

(a) * * *

(b) In designating countries as "beneficiary countries" under this title the President shall consider only the following countries and territories or successor political entities:

Anguilla
Antigua and Barbuda
Bahamas, The
Barbados
Belize
Cayman Islands
Costa Rica
Dominica
Dominican Republic
El Salvador
Grenada
Guatermala
Guyana
Haiti
Honduras
Jamacia
Montserrat
Netherlands Antilles
Nicaragua
Panama
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Saint Christopher-Nevis
Turks and Caicos Islands
Virgin Island, British

In addition, the President shall not designate any country a beneficiary country a beneficiary country under this title—

(1) * * *

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section [502(a)(4)] *506(4)* of the Trade ACt of 1974) to workers in the country (including any designation zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

SEC. 213. ELIGIBLE ARTICLES.

(a) * * *

* * * * * * *

(h)(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and the leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.

* * * * * * *

ANDEAN TRADE PREFERENCE ACT

* * * * * * *

SEC. 203. BENEFICIARY COUNTRY.

(a) * * *

* * * * * * *

(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this title—

(1) * * *

* * * * * * *

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section [502(a)(4)] *506(4)* of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

* * * * * * *

SEC. 204. ELIGIBLE ARTICLES.

(a) * * *

* * * * * * *

(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.

* * * * * * *

HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

* * * * * * *

GENERAL NOTES

* * * * * * *

3. *Rates of Duty.* The rates of duty in the "Rates of Duty" columns designated 1 ("General" and "Special") and 2 of the tariff schedule apply to goods imported into the customs territory of the United States as hereinafter provided in this note:

(a) *Rate of Duty Column 1.*

(i) * * *

* * * * * * *

(iv) *Products of Insular Possessions.*

(A) * * *

* * * * * * *

(C) Subject to the limitations imposed under [sections 503(b) and 504(c)] *subsections (a), (c), and (d) of section 503* of the Trade Act of 1974, goods designated

as eligible under section 503 of such Act which are imported from an insular possession of the United States shall receive duty treatment no less favorable than the treatment afforded such goods imported from a beneficiary developing country under title V of such Act.

* * * * * * *

6. *Articles Eligible for Duty-Free Treatment Pursuant to the Agreement on Trade in Civil Aircraft.* Whenever a product is entered under a provision for which the rate of duty "Free (C)" appears in the "Special" subcolumn, the importer shall file a written *or electronic* statement, accompanied by such supporting documentation as the Secretary of the Treasury may require, [with the appropriate customs officer] *with the United States Customs Service* stating that the imported article is a civil aircraft or has been imported for use in civil aircraft, that it will be so used and that such article has been approved for such use by the Administrator of the Federal Aviation Administration (FAA) or by the airworthiness authority in the country of exportation, if such approval is recognized by the FAA as an acceptable substitute for FAA certification, or that an application for approval for such use has been submitted to, and accepted by, the Administrator of the FAA. For purposes of the tariff schedule, the term *"civil aircraft"* means all aircraft other than aircraft purchased for use by the Department of Defense or the United States Coast Guard.

* * * * * * *

CHAPTER 29—ORGANIC CHEMICALS

* * * * * * *

Heading/Subheading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
2933 (con.)		Heterocyclic compounds with nitrogen heteroatom(s) only: nucleic acids and their salts (con.):				
		Lactams:				
2933.71.00	00	6-Hexanelactam (ε-Caprolactam)	kg	3¢/ kg + 9.6%.	Free (A*,CA,E, IL,J,MX).	15.4¢/ kg + 40%

Heading/Subheading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
	*	* *	*	*	* *	
2933.90.02	00	2-[4-[(6-Chloro-2-quinoxalinyl)-oxy]- phenoxylpropionic acid, ethyl ester [(Quizalofop ethyl)]; and O,O-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)- methyl]- phosphorodithioate	kg	Free		15.4¢/ kg + 64.5%
						Free

* * * * * * *

CHAPTER 99—TEMPORARY LEGISLATION; TEMPORARY MODIFICATIONS ESTABLISHED PURSUANT TO TRADE LEGISLATION; ADDITIONAL IMPORT RESTRICTIONS ESTABLISHED PURSUANT TO SECTION 22 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

* * * * * * *

Subchapter II—Temporary Reductions in Rates of Duty

* * * * * * *

Heading/Subheading	Article Description	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2	Effective Period
9902.07.10	Carrots, frozen (provided for in subheading 0710.80.70) ..	2.2¢/kg	No change	No change	On or before 12/31/92

* * * * * * *

9902.98.05	*Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1998 Goodwill Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing event by or on behalf of the foregoing persons or the organizing committee of such event; articles to be used in exhibitions depicting the culture of a country participating in such event; and, if consistent with the foregoing, such other articles as the Secretary of the Treasury may allow*	*Free*	*No change*	*Free*	*On or before 2/1/99*

* * * * * * *

TRADE ACT OF 1974

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* * * * * * *

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* * * * * * *

TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

* * * * * * *

Subchapter B—Program Benefits

PART I—TRADE READJUSTMENT ALLOWANCES

SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

(a) * * *

* * * * * * *

(c)(1)(A) If the Secretary finds that [it is not feasible or appropriate to approve a training program] *a training program is not available* for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that [it is not feasible or appropriate to approve a training program] *a training program is not available* for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

(i) submit to such worker a written statement certifying such finding, and

(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that [it is feasible or appropriate to approve a training program] *a training program is available* for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that [it is feasible or appropriate to approve a training program] *a training program is available* for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

* * * * * * *

SEC. 233. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) * * *

[(b) A trade readjustment allowance may not be paid for an trade readjustment allowance may not be paid for an additional week specified in subsection (a)(3) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 236 within 210 days after the date of the worker's first certification of eligibility to apply for adjustment assistance issued by the

Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 231(a)(1).]

* * * * * * *

PART II—TRAINING, OTHER EMPLOYMENT SERVICES, AND ALLOWANCES

* * * * * * *

[SEC. 238. RELOCATION ALLOWANCES.

[(a) Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section, if such worker files such application before—

[(1) the later of—

[(A) the 425th day after the date of the certification, or

[(B) the 425th day after the date of the worker's last total separation; or

[(2) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.

[(b) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides and that such worker—

[(1) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which he wishes to relocate, or

[(2) has obtained a bona fide offer of such employment, and

[(3) is totally separated from employment at the time relocation commences.

[(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days after the filing of the application therefor or (in the case of a worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training.

[(d) For the purposes of this section, the term "relocation allowance" means—

[(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2)) specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family if any, and household effects, and

[(2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of $800.]

* * * * * * *

CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

* * * * * * *

Subchapter C—General Provisions

* * * * * * *

SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Department of Labor, for each of the fiscal years 1993, 1994, 1995, 1996, 1997, [and 1998] *1998, 1999, and 2000*, such sums as may be necessary to carry out the purposes of this chapter, other than subchapter D.

* * * * * * *

CHAPTER 3—ADJUSTMENT ASSISTANCE FOR FIRMS

* * * * * * *

SEC. 256. DELEGATION OF FUNCTIONS TO SMALL BUSINESS ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS.

(a) * * *

(b) There are hereby authorized to be appropriated to the Secretary for fiscal years 1993, 1994, 1995, 1996, 1997, [and 1998] *1998, 1999, and 2000* such sums as may be necessary to carry out his functions under this chapter in connection with furnishing adjustment assistance to firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this chapter), which sums are authorized to be appropriated to remain available until expended.

* * * * * * *

Subchapter D—NAFTA Transitional Adjustment Assistance Program

SEC. 250. ESTABLISHMENT OF TRANSITIONAL PROGRAM.

(a) * * *

* * * * * * *

(d) COMPREHENSIVE ASSISTANCE.—Workers covered by certification issued by the Secretary under subsection (c) shall be provided, in the same manner and to the same extent as workers covered under a certification under subchapter A, the following:

(1) Employment services described in section 235.

(2) Training described in section 236, except that notwithstanding the provisions of section 236(a)(2)(A), the total amount of payments for training under this subchapter for any fiscal year shall not exceed $30,000,000.

(3) Trade readjustment allowances described in sections 231 through 234, except that—

(A) the provisions of sections 231(a)(5)(C) and 231(c), authorizing the payment of trade readjustment allowances upon a finding that [it is not feasible or appropriate to approve a training program] *a training program is not available* for a worker, shall not be applicable to payment of such allowances under this subchapter; and

(B) [notwithstanding the provisions of section 233(b),] in order for a worker to qualify for trade readjustment allowances under this subchapter, the worker shall be enrolled in a training program approved by the Secretary under section 236(a) by the later of—

(i) the last day of the 16th week of such worker's initial unemployment compensation benefit period, or

(ii) the last day of the 6th week after the week in which the Secretary issues a certification covering such worker.

In cases of extenuating circumstances relating to enrollment in a training program, the Secretary may extend the time for enrollment for a period not to exceed 30 days.

(4) Job search allowances described in section 237.

[(5) Relocation allowances described in section 238.]

* * * * * * *

CHAPTER 5—MISCELLANEOUS PROVISIONS

* * * * * * *

SEC. 285. TERMINATION.

(a) * * *

* * * * * * *

(c)(1) Except as provided in paragraph (2), no assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, [1998] *2000*.

[(2)(A) Except as provided in subparagraph (B), no assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after the day that is the earlier of—

[(i) September 30, 1998, or

[(ii) the date on which legislation, establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by such subchapter D, becomes effective.

[(B) Notwithstanding subparagraph (A), if, on or before the day described in subparagraph (A), a worker—

[(i) is certified as eligible to apply for assistance, under subchapter D of chapter 2; and

[(ii) is otherwise eligible to receive assistance in accordance with section 250,

such worker shall continue to be eligible to receive such assistance for any week for which the worker meets the eligibility requirements of such section.]

(2) No assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after September 30, 1998.

* * * * * * *

TITLE III—RELIEF FROM UNFAIR TRADE PRACTICES

CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

SEC. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

(a) * * *

* * * * * * *

(c) SCOPE OF AUTHORITY.—

(1) * * *

* * * * * * *

(4) Any trade agreement described in paragraph [(1)(C)(iii)] *(1)(D)(iii)* shall provide compensatory trade benefits that benefit the economic sector which includes the domestic industry that would benefit from the elimination of the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b), or benefit the economic sector as closely related as possible to such economic sector, unless—

(A) the provision of such trade benefits is not feasible, or

(B) trade benefits that benefit any other economic sector would be more satisfactory than such trade benefits.

* * * * * * *

SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

(a) IDENTIFICATION.—

(1) Within 180 days after the submission in [calendar year 1995] *each of calendar years 1995 through 2000* of the report required by section 181(b), the Trade Representative shall—

(A) * * *

* * * * * * *

[TITLE V—GENERALIZED SYSTEM OF PREFERENCES

[SEC. 501. AUTHORITY TO EXTEND PREFERENCE.

[The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

[(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

[(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries

by granting generalized preferences with respect to imports of products of such countries;

[(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

[(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

[SEC. 502. BENEFICIARY DEVELOPING COUNTRY.

[(a)(1) For purposes of this title, the term "beneficiary developing country" means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President of the United States designating such country as a beneficiary developing country for purposes of this title. Before the President designates any country as a beneficiary developing country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

[(2) If the President has designated any country as a beneficiary developing country for purposes of this title, he shall not terminate such designation (either by issuing an Executive order or Presidential proclamation for that purpose or by issuing an Executive order or Presidential proclamation which has the effect of terminating such designation) unless, at least 60 days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the consideration entering into such decision.

[(3) For purposes of this title, the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under subsection (b) shall be treated as one country for purposes of this title.

[(4) For purposes of this title, the term "internationally recognized worker rights" includes—

[(A) the right of association;

[(B) the right to organize and bargain collectively;

[(C) a prohibition on the use of any form of forced or compulsory labor;

[(D) a minimum age for the employment of children; and

[(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

[(b) No designation shall be made under this section with respect to any of the following:

[Australia
Austria
Canada
European Economic Community member states
Japan
Monaco
New Zealand
Norway
Sweden

Finland
Iceland
Switzerland

In addition, the President shall not designate any country a beneficiary developing country under this section—

[(1) if such country is a Communist country, unless (A) the products of such country receive nondiscriminatory treatment, (B) such country is a contracting party to the General Agreement on Tariffs and Trade and a member of the International Monetary Fund, and (C) such country is not dominated or controlled by international communism;

[(2) if such country is a member of the Organization of Petroleum Exporting Countries, or a party to any other arrangement of foreign countries, and such country participates in any action pursuant to such arrangement the effect of which is to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level and to cause serious disruption of the world economy;

[(3) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976, or that action will be taken before January 1, 1976, to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

[(4) if such country—

[(A) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

[(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

[(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

[(D) the President determines that—

[(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

[(ii) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such

country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

[(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

[(5) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

[(6) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism; and

[(7) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

[Paragraphs (4), (6), (7), and (8) shall not prevent the designation of any country as a beneficiary developing country under this section if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with his reasons therefor.

[(c) In determining whether to designate any country a beneficiary developing country under this section, the President shall take into account—

[(1) an expression by such country of its desire to be so designated;

[(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

[(3) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country;

[(4) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

[(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

[(6) the extent to which such country has taken action to—

[(A) reduce trade distorting investment practices and policies (including export performance requirements); and

[(B) reduce or eliminate barriers to trade in services; and

[(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

[(d) Amendment of general headnote 3(a) to the Tariff Schedules of the United States relating to products of insular possessions.

[(e)(1) The President may exempt from the application of paragraph (2) of subsection (b) any country during the period during which such country (A) is a party to a bilateral or multilateral trade agreement to which the United States is also a party if such agreement fulfills the negotiating objectives set forth in section 108 of assuring the United States fair and equitable access at reasonable prices to supplies of articles of commerce important to the economic requirements of the United States and (B) is not in violation of such agreement by action denying the United States such fair and equitable access.

[(2) The President may exempt from the application of paragraph (2) of subsection (b) any country that enters into a bilateral product-specific trade agreement with the United States under section 101 or 102 of the Trade Act of 1974 before January 3, 1980. The President shall terminate the exemption granted to any country under the preceding sentence if that country interrupts or terminates the delivery of supplies of petroleum and petroleum products to the United States.

[SEC. 503. ELIGIBLE ARTICLES.

[(a) The President shall, from time to time, publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. Before any such list is furnished to the Commission, there shall be in effect an Executive order or Presidential proclamation under section 502 designating beneficiary developing countries. The provisions of sections 131, 132, 133, and 134 of this Act shall be complied with as though action under section 501 were action under section 101 of this Act to carry out a trade agreement entered into under section 101. After receiving the advice of the Commission with respect to the listed articles, the President shall designate those articles he considers appropriate to be eligible articles for purposes of this title by Executive order or Presidential proclamation.

[(b)(1) The duty free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

[(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States;

[(B) the sum of (i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such arti-

cle at the time of its entry into the customs territory of the United States.

[(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone—

[(A) simple combining or packaging operations, or

[(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

[(c)(1) The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles—

[(A) textile and apparel articles which are subject to textile agreements,

[(B) watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions,

[(C) import-sensitive electronic articles,

[(D) import-sensitive steel articles,

[(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this article on April 1, 1984,

[(F) import-sensitive semimanufactured and manufactured glass products, and

[(G) any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

[(2) No article shall be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act or section 232 or 351 of the Trade Expansion Act of 1962.

[(d) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

[SEC. 504. LIMITATIONS ON PREFERENTIAL TREATMENT.

[(a)(1) The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section 501 with respect to any article or with respect to any country; except that no rate of duty may be established in respect of any article pursuant to this section other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 502 and 502(c).

[(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).

[(b) The President shall, after complying with the requirements of section 502(a)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 502(b). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking his designation of such country under section 502.

[(c)(1) Subject to paragraphs (2) through (7) and subsection (d), whenever the President determines that any country—

[(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

[(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

then, not later than July 1 of the next calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

[(2)(A) Not later than January 1, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

[(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

[(i) "1984" for "1974" in subparagraph (A), and

[(ii) "25 percent" for "50 percent" in subparagraph (B).

[(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

[(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

[(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i),

that such waiver is in the national economic interest of the United States, and

[(iii) publishes the determination described in clause (ii) in the Federal Register.

[(B) In making any determination under subparagraph (A), the President shall give great weight to—

[(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

[(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

[(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

[(D)(i) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered in any calendar year which exceeds an aggregate value equal to 30 percent of the total value of all articles which entered duty-free under this title during the preceding calendar year.

[(ii) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered during any calendar year beginning after 1986 the aggregate value of which exceeds 15 percent of the total value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

[(I) had a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $5,000 or more; or

[(II) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an appraised value of more than 10 percent of the total imports of all articles that entered duty-free under this title during that year.

[(iii) There shall be counted against the limitations imposed under clauses (i) and (ii) for any calendar year only that quantity of any eligible article of any country that—

[(I) entered duty-free under this title during such calendar year; and

[(II) is in excess of the quantity of that article that would have been so entered during such calendar year if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

[(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

[(A) there has been a historical preferential trade relationship between the United States and such country,

[(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

[(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

[(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

[(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

[(B) The President shall—

[(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

[(ii) notify the Congress at least 60 days before any such determination becomes final.

[(7) For purposes of this subsection, the term "country" does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

[(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

[(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.

[(e) No action pursuant to section 501 may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. sec. 1319) on coffee imported into Puerto Rico.

[(f)(1) If the President determines that the per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of any beneficiary developing country for any calendar year (hereafter in this subsection referred to as the "determination year") after 1984, exceeds the applicable limit for the determination year—

[(A) subsection (c)(1)(B) shall be applied for the 2-year period beginning on July 1 of the calendar year succeeding the determination year by substituting "25 percent" or "50 percent", and

[(B) such country shall not be treated as a beneficiary developing country under this title after the close of such 2-year period.

[(2)(A) For purposes of this subsection, the term "applicable limit" means a sum of—

[(i) $8,500, plus

[(ii) 50 percent of the amount determined under subparagraph (B) for the determination year.

[(B) The amount determined under this subparagraph for the determination year is an amount equal to—

[(i) $8,500, multiplied by

[(ii) the percentage determined by dividing—

[(I) the excess, if any, of the gross national product of the United States (as determined by the Secretary of Commerce) for the determination year over the gross national product of the United States for 1984, by

[(II) the gross national product for 1984.

[SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

[(a) No duty-free treatment provided under this title shall remain in effect after July 31, 1995.

[(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

[(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

[SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

[The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.]

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

(a) AUTHORITY TO DESIGNATE COUNTRIES.—

(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title.

(b) COUNTRIES INELIGIBLE FOR COUNTRY DESIGNATION.—

(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

(A) Australia.
(B) Canada.
(C) European Union member states.
(D) Iceland.
(E) Japan.
(F) Monaco.
(G) New Zealand.
(H) Norway.
(I) Switzerland.

(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

(A) Such country is a Communist country, unless—

(i) the products of such country receive nondiscriminatory treatment,

(ii) such country is a WTO Member (as such term is defined in section 2 of the Uruguay Round Agreements Act,) and a member of the International Monetary Fund, and

(iii) such country is not dominated or controlled by international communism.

(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

(ii) to cause serious disruption of the world economy.

(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

(D)(i) Such country—

(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

(ii) This clause applies if the President determines that—

(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United

States and reports such determination to the Congress with the reasons therefor.

(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

(3) the extent to which other major developed countries are extending generalized preferential tariff treatment to such country;

(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

(5) whether such country is providing adequate and effective protection of intellectual property rights;

(6) the extent to which such country has taken action to—

(A) reduce trade distorting investment practices and policies (including export performance requirements); and

(B) reduce or eliminate barriers to trade in services;

(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights; and

(8) the extent to which such country fails to cooperate with the United States in preventing the proliferation of nuclear weapons, nuclear weapons components, and nuclear weapons delivery systems, or in preventing illegal drug trafficking.

A country may be found to not provide adequate and effective protection of intellectual property rights under paragraph (5) and section 503(d)(2)(B), notwithstanding the fact that it may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.

(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. Except in exceptional circumstances, the President, before taking any action under this subsection, shall provide a period for the submission of public comments on the matter under consideration, and in taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section, and comments received from the public.

(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary de-

veloping country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a "high income" country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on the day after December 31 of the year following the year in which such determination is made.

(f) CONGRESSIONAL NOTIFICATION.—

(1) NOTIFICATION OF DESIGNATION.—(A) Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

(B) At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

(a) ELIGIBLE ARTICLES.—

(1) DESIGNATION.—

(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles for all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except as provided in subsection (b), the President is authorized to designate additional articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as

an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of three years after such denial.

(2) RULE OF ORIGIN.—

(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

(ii) the sum of—

(I) the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section 506(2), plus

(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

(i) simple combining or packaging operations, or

(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

(B) Import-sensitive electronic articles.

(C) Import-sensitive steel articles.

(D) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible arti-

cles for purposes of this title on January 1, 1995, as this title was in effect on such date.

(E) Import-sensitive semimanufactured and manufactured glass products.

(F) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(2) COMPETITIVE NEED LIMITATION.—

(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—Except as provided in this paragraph and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

(i) a quantity of an eligible article having an appraised value in excess of $75,000,000, except that, in applying this clause, the amount of $75,000,000 shall be increased by $5,000,000 on January 1 of each calendar year after calendar year 1995, or

(ii) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during the calendar year,

then the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

(B) COUNTRY DEFINED.—For purposes of this paragraph, the term "country" does not include an association of countries which is treated as one country under section 506(2), but does include a country which is a member of any such association.

(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may be redesignated a beneficiary developing country with respect to

such article, subject to the considerations set forth in sections 501 and 502, if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(ii) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

(F) DE MINIMIS WAIVERS.—The President may disregard subparagraph (A)(ii) with respect to any eligible article from any beneficiary developing country if the appraised value of the total imports of such article into the United States during calendar year 1995 or any calendar year thereafter does not exceed $13,000,000, except that, in applying this subparagraph, the amount of $13,000,000 shall be increased by $500,000 on January 1 of each calendar year after calendar year 1995.

(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

(C) publishes the determination described in subparagraph (B) in the Federal Register.

(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

(3) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under section 503(a)(1), the President shall publish and furnish the International Trade Commission with

lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

SEC. 504. REVIEW AND REPORTS TO CONGRESS.

(a) REPORT ON OPERATION OF TITLE.—On or before July 31, 1997, the President shall submit to the Congress a full and complete report regarding the operation of this title.

(b) ANNUAL REPORTS ON WORKER RIGHTS.—The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

SEC. 505. DATE OF TERMINATION.

No duty-free treatment provided under this title shall remain in effect after December 31, 1997.

SEC. 506. DEFINITIONS.

For purposes of this title:

(1) BENEFICIARY DEVELOPING COUNTRY.—The term "beneficiary developing country" means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

(2) COUNTRY.—The term "country" means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

(3) ENTERED.—The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term "internationally recognized worker rights" includes—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term "least-developed beneficiary developing country" means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).

* * * * * * *

SECTION 405 OF THE URUGUAY ROUND AGREEMENTS ACT

SEC. 405. SPECIAL AGRICULTURAL SAFEGUARD AUTHORITY.

(a) * * *

(b) DETERMINATION OF SAFEGUARD.—If the President determines with respect to a special safeguard agricultural good that it is appropriate to impose—

(1) the price-based safeguard in accordance with subparagraph [1(a)] *1(b)* of Article 5; or

(2) the volume-based safeguard in accordance with subparagraph [1(b)] *1(a)* of Article 5,

the President shall, consistent with Article 5 as determined by the President, determine the amount of the duty to be imposed, the period such duty shall be in effect, and any other terms and conditions applicable to the duty.

* * * * * * *

THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

* * * * * * *

Subtitle B—Implementation of the Harmonized Tariff Schedule

* * * * * * *

SEC. 1211. TRANSITION TO THE HARMONIZED TARIFF SCHEDULE.

(a) * * *

(b) GENERALIZED SYSTEM OF PREFERENCES CONVERSION.—

(1) The review of the proposed conversion of the Generalized System of Preferences program to the Convention tariff nomenclature, initiated by the Office of the United States Trade Representative by notice published in the Federal Register on December 8, 1986 (at page 44,163 of volume 51 thereof), shall be treated as satisfying the requirements of sections 503(a) and 504(c)(3) of the Trade Act of 1974 [(19 U.S.C. 2463(a), 2464(c)(3))] *(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995).*

(2) In applying section 504(c)(1) of the Trade Act of 1974 [(19 U.S.C. 2464(c)(1))] *(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)* for calendar year

1989, the reference in such section to July 1 shall be treated as a reference to September 1.

* * * * * * *

TITLE II—EXPORT ENHANCEMENT

SEC. 2001. SHORT TITLE.

This title may be referred to as the "Export Enhancement Act of 1988".

* * * * * * *

Subtitle B—Export Enhancement

PART I—GENERAL PROVISIONS

* * * * * * *

SEC. 2202. COUNTRY REPORTS ON ECONOMIC POLICY AND TRADE PRACTICES.

The Secretary of State shall, not later than January 31 of each year, prepare and transmit to the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives, to the Committee on Foreign Relations and the Committee on Finance of the Senate, and to other appropriate committees of the Congress, a detailed report regarding the economic policy and trade practices of each country with which the United States has an economic or trade relationship. The Secretary may direct the appropriate officers of the Department of State who are serving overseas, in consultation with appropriate officers or employees of other departments and agencies of the United States, including the Department of Agriculture and the Department of Commerce, to coordinate the preparation of such information in a country as is necessary to prepare the report under this section. The report shall identify and describe, with respect to each country—

(1) * * *

* * * * * * *

(8) the country's laws, enforcement of those laws, and practices with respect to internationally recognized worker rights (as defined in section [502(a)(4)] *506(4)* of the Trade Act of 1974), the conditions of worker rights in any sector which produces goods in which United States capital is invested, and the extent of such investment.

* * * * * * *

SECTION 871 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 871. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

(a) * * *

* * * * * * *

(f) CERTAIN ANNUITIES RECEIVED UNDER QUALIFIED PLANS—

(1) * * *

(2) EXCLUSION.—Income received during the taxable year which would be excluded from gross income under this subsection but for the requirement of paragraph (1)(B) shall not be included in gross income if—

(A) the recipient's country of residence grants a substantially equivalent exclusion to residents and citizens of the United States; or

(B) the recipient's country of residence is a beneficiary developing country [within the meaning of section 502] *under title V* of the Trade Act of 1974 (19 U.S.C. 2462).

SECTION 231A OF THE FOREIGN ASSISTANCE ACT OF 1961

SEC. 231A. ADDITIONAL REQUIREMENTS.—(a) WORKER RIGHTS.—

(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section [502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))] *506(4) of the Trade Act of 1974*, to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

"The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government."

(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section [505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))] *504(b) of the Trade Act of 1974*. The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

* * * * * * *

(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section [502(a)(4)] *506(4)* of the Trade Act of 1974.

* * * * * * *

IV. Votes of the Committee

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the votes of the committee in its consideration of the reconciliation recommendations.

MOTION TO REPORT THE RECOMMENDATIONS

The reconciliation recommendations, as amended, were ordered favorably reported by voice vote on September 13, 1995, with a quorum present.

VOTES ON AMENDMENTS

The committee defeated an amendment (15 yeas and 22 nays) offered by Mr. Zimmer to add a new subtitle to the budget reconciliation recommendations which would add a new subtitle to the recommendations that would defer implementation of section 334 of the Uruguay Round Agreements Act, which shifts the basis for origin determinations from the country where fabric is cut to the country where pieces are assembled, effective July 1, 1996. The roll call is as follows:

YEAS	NAYS
Mr. Archer	Mr. Thomas
Mr. Crane	Mr. Shaw
Mr. Herger	Mrs. Johnson
Mr. Ramstad	Mr. Bunning
Mr. Zimmer	Mr. Houghton
Mr. Nussle	Mr. McCrery
Mr. Johnson	Mr. Hancock
Ms. Dunn	Mr. Camp
Mr. Portman	Mr. Collins
Mr. English	Mr. Laughlin
Mr. Ensign	Mr. Gibbons
Mr. Christensen	Mr. Rangel
Mr. Matsui	Mr. Stark
Mrs. Kennelly	Mr. Jacobs
Mr. McDermott	Mr. Ford
	Mr. Coyne
	Mr. Levin
	Mr. Cardin
	Mr. Kleczka
	Mr. Lewis
	Mr. Payne
	Mr. Neal

MOTION TO REPORT THE RECOMMENDATIONS

The reconciliation recommendations, as amended, were ordered favorably reported by voice vote on September 21, 1995, with a quorum present.

VOTES ON AMENDMENTS

A division of the question was demanded on an amendment offered by Mr. Kleczka: First, to permit the Secretary of Labor to

grant waivers for training where training programs are not available; and second, to amend relocation allowance amounts.

1. The committee agreed to the portion of the amendment regarding waivers (18 yeas and 17 nays). The rollcall is as follows:

YEAS	NAYS
Mr. Thomas	Mr Archer
Mr. Shaw	Mr. Crane
Mrs. Johnson	Mr. Bunning
Mr. English	Mr. Houghton
Mr. Engish	Mr. Herger
Mr. Gibbons	Mr. McCrery
Mr. Rangel	Mr. Hancock
Mr. Jacobs	Mr. Camp
Mr. Matsui	Mr. Ramstad
Mrs. Kennelly	Mr. Zimmer
Mr. Coyne	Mr. Nussle
Mr. Levin	Mr. Johnson
Mr. Cardin	Ms. Dunn
Mr. McDermott	Mr. Collins
Mr. Kleczka	Mr. Portman
Mr. Lewis	Mr. Laughlin
Mr. Payne	Mr. Christensen
Mr. Neal	

2. The committee defeated the portion of the amendment regarding relocation allowances (14 yeas and 20 nays). The rollcall is as follows:

YEAS	NAYS
Mr. English	Mr. Archer
Mr. Gibbons	Mr. Crane
Mr. Rangel	Mr. Shaw
Mr. Jacobs	Mrs. Johnson
Mr. Matsui	Mr. Bunning
Mrs. Kennelly	Mr. Houghton
Mr. Coyne	Mr. Herger
Mr. Levin	Mr. McCrery
Mr. Cardin	Mr. Hancock
Mr. McDermott	Mr. Camp
Mr. Kleczka	Mr. Ramstad
Mr. Lewis	Mr. Zimmer
Mr. Payne	Mr. Nussle
Mr. Neal	Mr. Johnson
	Ms. Dunn
	Mr. Collins
	Mr. Portman
	Mr. Laughlin
	Mr. Ensign
	Mr. Christensen

V. Budget Effects of the Bill

1. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made:

The committee agrees with the estimate prepared by the Congressional Budget Office [CBO] which is included below.

2. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the committee states that the committee recommendations result in new discretionary budget authority and no new increased tax expenditures or revenues.

3. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 21, 1995.

Hon. PHILIP M. CRANE,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office [CBO] has reviewed the trade subtitles A–C as marked up by the Subcommittee on Trade of the Committee on Ways and Means on September 14, 1995. CBO estimates that subtitle A, the technical corrections provisions, would result in a net decrease in revenues of $2 million in fiscal year 1996 and a loss of offsetting receipts of $1 million annually for each of the fiscal years 1996 to 2002. Subtitle B, the GSP Renewal Act of 1995, would reduce revenues by $532 million in fiscal year 1996 and by $938 million over fiscal years 1996 through 2002, net of income and payroll tax offsets. Subtitle C, regarding the identification of trade expansion priorities, would have no significant budgetary impact. This estimate, which includes projections through 2002, supersedes CBO's estimate of September 19, 1995, which included projections only through 2000.

SUBTITLE A

Subtitle A makes technical corrections in certain trade legislation and other miscellaneous trade provisions. CBO estimates that most provisions would have no significant budgetary impact. However, there are two exceptions.

One exception is the provision that modifies section 484E(b)(2)(B) of the Customs and Trade Act of 1990 to extend retroactively the temporary exemption regarding certain vessel repairs. Prior to December 31, 1992, lighter aboard ship [LASH] barges were exempted from the 50 percent ad valorem duty on vessel repairs done in foreign ports. This exemption was made permanent as of January 1,

1995, under the Uruguay Round Agreements Act. Returning the duties collected on such LASH barges vessel repairs between December 31, 1992, and December 31, 1994, would result in a net decrease in revenues of about $2 million in fiscal year 1996.

The second exception is the provision that ensures the collection of customs user fees only one time in the course of a single voyage for a passenger on a commercial vessel. CBO estimates that this would result in a net decrease of offsetting receipts of about $1 million annually. The budgetary effects of subtitle A are summarized in the table below.

SUBTITLE B

The U.S. Generalized System of Preferences [GSP] affords nonreciprocal tariff preferences to approximately 145 developing countries to aid their economic development and to diversify and expand their production and exports. Several industrial countries also offer similar preferences. Generally, duty-free treatment of imported goods from GSP designated developing countries is extended to products that are not competitive internationally. Also, the program contains safeguard mechanisms to protect domestic industries that are sensitive to import competition.

The U.S. GSP expired on July 31, 1995. Subtitle B would retroactively apply GSP from July 31, 1995, and extend the program through December 31, 1997, with some modifications. Previously under GSP, eligible imports were subject to competitive need limitations on GSP duty-free treatment that were subject to waiver under certain conditions. If imports of a GSP eligible product from a particular country exceeded a certain dollar level in a calendar year—the level was about $110 million—or 50 percent of total U.S. imports of that product, then GSP treatment was removed for that product unless a waiver was granted. Under subtitle B, the competitive need limit would be lowered to $75 million. Consequently, fewer products would receive duty-free treatment than under the provision that recently expired.

The estimate of revenue loss is based on 1993 trade data and accounts for the graduation of Malaysia from GSP on January 1, 1997, as recommended by the USTR on August 15, 1995. Malaysia has been a top beneficiary of GSP accounting for about a quarter of total GSP imports. The budget effects of subtitle B are shown below.

BUDGET EFFECTS OF SUBTITLES A AND B

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
	Changes in Revenues (Net)						
Projected revenues under current law[1]	1417.619	1475.210	1546.076	1617.969	1697.155	1786.321	1879.300
Subtitle A: Proposed changes	−0.0020	0.000	0.000	0.000	0.000	0.000	0.000
Subtitle B: Proposed changes	−0.532	−0.328	−0.078	0.000	0.000	0.000	0.000
Projected revenues under subtitles A and B	1417.165	1474.882	1545.998	1617.969	1697.155	1786.321	1879.300

BUDGET EFFECTS OF SUBTITLES A AND B—Continued

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Changes in Offsetting Receipts							
Projected COBRA fees under current law	0.396	0.427	0.263	0.282	0.302	0.323	0.346
Subtitle A: Proposed changes	−0.001	−0.001	−0.001	−0.001	−0.001	−0.001	−0.001
Projected COBRA fees under subtitle A	0.395	0.426	0.262	0.281	0.301	0.322	0.345

[1] Includes the revenue effects of Public Law 104–7 (H.R. 831).

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting receipts or direct spending through 1998. Because subtitles A and B would affect direct spending and receipts, pay-as-you-go procedures would apply. These effects are summarized in the table below:

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1996	1997	1998
Changes in receipts	−534	−327	−78
Changes in outlays	1	1	1

If you wish further details, please feel free to contact me or your staff may wish to contact Stephanie Weiner at 226–2720 or Mark Grabowicz at 226–2860.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1995.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office [CBO] has prepared the enclosed cost estimate for the trade adjustment assistance reconciliation language approved by the House Committee on Ways and Means on September 21, 1995.

This estimate shows the budgetary effects of the committee's proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill title: Reconciliation recommendations of the House Committee on Ways and Means relating to trade adjustment assistance.

2. Bill status: As approved by the House Committee on Ways and Means on September 21, 1995.

3. Bill purpose: To modify trade adjustment assistance and reauthorize the programs for fiscal years 1999 and 2000.

4. Estimated cost to the Federal Government: Effective October 1, 1996, this proposal would modify trade adjustment assistance [TAA] programs for workers by not allowing funds to be used for relocation expenses. Table 1 shows projected direct spending for these programs under current law, the changes that would stem from the proposal, and the projected direct spending if the proposal were enacted.

TABLE 1. BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON WAYS AND MEANS—DIRECT SPENDING

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Projected direct spending under current law:								
Estimated budget authority	338	346	322	330	259	254	258	261
Estimated outlays	313	335	330	325	281	261	258	261
Proposed changes:								
Estimated budget authority:	.....	.....	−2	−1	−1	−1	−1	−1
Estimated outlays	.....	.....	([1])	−2	−1	−1	−1	−1
Projected direct spending under the proposal:								
Estimated budget authority:	338	346	320	329	258	253	257	260
Estimated outlays	313	335	330	323	280	260	257	260

[1] Indicates savings of less than $500,000.

Additionally, this proposal would increase discretionary spending by authorizing trade adjustment assistance for firms through fiscal year 2000. Currently, this program is authorized only through fiscal year 1998. Table 2 shows the estimated changes in authorizations with and without adjustments for inflation.

TABLE 2. BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON WAYS AND MEANS—AUTHORIZATIONS OF APPROPRIATIONS

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
INCLUDING ADJUSTMENTS FOR INFLATION								
Projected authorizations under current law:								
Estimated authorizations of appropriations	10	10	11	11	.....	.....	.....	.....
Estimated outlays	13	12	11	10	10	8	5	3
Proposed changes:								
Estimated authorizations of appropriations	.....	.....	.....	.....	11	12	.....	.....
Estimated outlays	.....	.....	.....	.....	([1])	3	6	6
Projected authorizations under the proposal:								
Estimated authorizations of appropriations:	10	10	11	11	11	12	.....	.....
Estimated outlays	13	12	11	10	11	11	11	9
NOT INCLUDING ADJUSTMENTS FOR INFLATION								
Projected authorizations under current law:								
Estimated authorizations of appropriations	10	10	10	10	.....	.....	.....	.....
Estimated outlays	13	12	11	10	10	8	5	3

TABLE 2. BUDGETARY IMPACT OF THE RECONCILIATION PROPOSALS OF THE HOUSE COMMITTEE ON WAYS AND MEANS—AUTHORIZATIONS OF APPROPRIATIONS—Continued

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
Proposed changes:								
Estimated authorizations of appropriations	.....	.....	.....	.....	10	10	.....	.....
Estimated outlays	.....	.....	.....	.....	(1)	2	5	5
Projected authorizations under the proposal:								
Estimated authorizations of appropriations	10	10	10	10	10	10	.....	.....
Estimated outlays	13	12	11	10	10	10	10	8

[1] Indicates amounts of less than $500,000.

The costs of this bill fall within budget functions 500 and 450.

5. Basis of estimate: This estimate assumes that the reconciliation bill will be enacted by November 15, 1995.

This proposal would modify the trade adjustment assistance training program in three ways. First, beginning in fiscal year 1997, it would require that no funds for this program be used for job relocation expenses. Under current law, eligible workers may receive up to $800 for job search and job relocation expenses. The Department of Labor [DOL] estimates that $4 million would be spent for both job relocation and job search expenses in fiscal year 1996 and about $2 million a year thereafter. Historically, job relocation expenses have been about 65 percent of the total expenses for job search and relocation. Accordingly, CBO estimates that this modification would reduce outlays by about $6 million over the 1996–2002 period.

Second, this proposal would require that waivers be granted only in instances where no training is available. Current law allows the Secretary of Labor to grant waivers in cases where available training is not appropriate to a particular worker, so that the worker to whom training is not available may still receive cash benefits under TAA. CBO estimates that this change would not significantly alter the way waivers currently are granted. Therefore, no savings are estimated for this provision.

Third, this proposal would extend discretionary trade adjustment assistance programs through fiscal year 2000. Authorization for these programs expires in fiscal year 1998 under current law. According to requirements of the Budget Enforcement Act, CBO assumes that expiring mandatory programs above a threshold of $50 million are extended. Under this proposal, authorizations for TAA for firms would increase by a total of $20 million in budget authority and $12 million in outlays from 1999 to 2002 when compared to the current authorization.

6. Estimated cost to State and local governments: This proposal would have no significant effect on the budgets of State and local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Christi Hawley.

10. Estimate approved by: Paul Van de Water, Assistant Director for Budget Analysis.

VI. Other Matters Required To Be Discussed Under the Rules of the House

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the need for this legislation was confirmed by the oversight hearing of the Subcommittee on Trade.

On February 27, 1995, the subcommittee held a public hearing on extending the GSP Program. The Subcommittee on Trade received testimony in support of extending GSP from the administration and from companies and associations representing exporter, importer, economic development, and consumer interests.

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the need for this legislation was confirmed by a review of the program, a desire to make the program more cost-effective, and the submission of written public comments.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

In compliance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee states that no oversight findings or recommendations have been submitted to the Committee on Government Reform and Oversight regarding the subjects of these recommendations.

C. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee states that the provisions of the recommendations are not expected to have an overall inflationary impact on the economy.

○