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# CONGRESSIONAL RECORD
## PROCEEDINGS AND DEBATES OF THE 98TH CONGRESS

SENATE

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| S. 645 | March 1, 1983 | S1947-56 |

**Action:**

Introduced by Mr. Dole, et al.
General Accounting Office reference, p. S1953(3), S1954(1)

By Mr. DOLE (for himself, Mr. HEFLIN, and Mr. THURMOND):

S. 645. A bill to establish an intercircuit tribunal, and for other purposes; to the Committee on the Judiciary.

COURT IMPROVEMENTS ACT OF 1983

● Mr. DOLE. Mr. President, on behalf of myself and Senators HEFLIN and THURMOND, I am pleased to introduce the Court Improvements Act of 1983.

The most significant of the reforms included in the package is the creation of an intercircuit tribunal to exercise jurisdiction over cases referred to it by the Supreme Court.

The purpose of the tribunal is to relieve the dramatically increased workload of the Supreme Court. In recent months, in highly unusual fashion, eight Justices of the Court have spoken publicly about the problem of docket congestion. A few weeks ago, the Chief Justice of the United States specifically endorsed the creation of a temporary intercircuit tribunal to help alleviate the growing overload.

For years, judicial commentators and scholars have tracked the alarming rise in the number of cases before the Court. In the Court's past session, there were more than 6,000 petitions for certiorari, an increase of more than 80 percent over the past 10 years. Of sheer necessity, an increasing number of these requests for High Court review were decided in summary, or per curiam fashion.

Almost 10 years ago, the Hruska Commission, which was established to study the Federal appellate system, recommended that a national court of appeals be created to serve as a safety valve for an increasingly overloaded and overworked Supreme Court. In the intervening years, the pressures which led to this recommendation have intensified and the Hruska proposal has continued to receive interest and support. In this and the past Congress, Senator HEFLIN, the ranking minority member of the Courts Subcommittee, has proposed the creation of a permanent National Court of Appeals along the lines recommended by the Hruska Commission, and his well-recognized expertise in this area was instrumental in the development of this intercircuit tribunal proposal.

The intercircuit tribunal can be an important new tool to ease the alarming burdens on the Court.

The elements of the proposal are straight-forward: A temporary court would be created for a 5-year period to settle important matters referred to it by the Supreme Court. The proposal follows the recommendations of the Hruska Commission in that the tribunal would have no original jurisdiction. It would decide only cases which the Supreme Court referred to it by majority vote. The Supreme Court would retain the power to overrule or modify any decision of the tribunal, consistent with its constitutional role as the highest court in the land.

The circuit council of each circuit court of appeals would nominate two judges to sit on the 26-member tribunal. Five judge panels would then be formed within the tribunal to hear and decide cases. No two judges from the same circuit could sit on the same panel. Judges would be designated to sit on panels by a lottery system in such a way that all judges of the tribunal would hear and decide cases that

represent all types of cases before the tribunal.

The legislation also incorporates Senator HEFLIN's proposal to establish a Chancellor of the United States who would be appointed by the Chief Justice from among circuit judges in regular active service. The Chancellor would be responsible for assisting the Chief Justice with the ever increasing administrative burdens of the position of Chief Justice. He would also serve as a member of the intercircuit tribunal and be responsible for the administration of that court.

Mr. President, this proposal constitutes a balanced and cost-efficient response to the Supreme Court's urgent need for relief from its burgeoning caseload. Because the proposal does not involve the creation of new judgeships, nor the establishment of a separate administrative support structure, its costs should be minimal. In addition, the temporary nature of the tribunal should address the reservations of some about creating a new appellate layer to the Federal court structure in the form of a permanent National Court of Appeals. Rather, this 5-year experiment will provide the Congress with needed information concerning the feasibility and wisdom of taking such a step. At the same time, the tribunal will provide desperately needed additional decisional capacity for the resolution of disputes where nationwide uniformity is needed, many of which are now left unresolved because the Supreme Court cannot make room on its docket.

The remaining components of this court improvements package consist of proposals which are similar or identical to bills which were introduced in the last Congress. All were mentioned in the year end report of the Chief Justice as needed improvements in judicial administration.

First, title I would eliminate the mandatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court and the Court is obligated to hear and decide them. The majority of these cases do not involve important issues, are summarily dealt with, and essentially serve only to clog the Court's docket. Identical proposals have passed at least one House of Congress in the past three Congresses.

Title II would eliminate most civil priorities. Over the past several years, the Congress has enacted so many statutory provisions requiring the courts to give expedited consideration to certain civil cases, that they have become virtually meaningless. Title II would eliminate all these identified priorities, except for habeas corpus, civil rights, and FOIA cases, and applications for temporary restraining orders or injunctions. A proposal virtually identical to title II passed the House last year as part of the Rails-back court reform package.

Title III would make certain improvements to judicial survivor's benefits to make them more comparable to those provided by State judicial systems and in private law practice. These improvements should help turn the tide on the increasing number of Federal judges resigning and help maintain the high caliber of those accepting appointments to the Federal bench. Included in the improvements are: Basing children's annuities on a percentage of salary, as opposed to a fixed dollar amount; creating a minimum annuity of 30 percent of salary for surviving spouses; and increasing the factoring figure upon which surviving spouses' annuities are based. Participating judges would be required to contribute an increased percentage of their salary to help offset additional costs.

Title IV would create a State justice institute. This nonprofit corporation would administer federally funded assistance programs to State courts to improve judicial administration at the State level. It is identical to a bill introduced by Senator HEFLIN, and which passed the Senate in the last Congress.

Title V would create a temporary Federal courts study commission to look beyond the immediate problems confronting the judiciary and to undertake comprehensive, long-range planning. Specifically, the major purposes of the commission would be to conduct a 2-year study of the jurisdiction of the Federal and State courts, appraise the problems confronting the courts and develop a long-range plan for their future needs. The bipartisan commission would consist of 14 members appointed by the heads of the three branches of Government, and would submit periodic reports on the state of the judiciary and a final report at the end of 10 years. It is identical to a proposal sponsored by Senators THURMOND and HEFLIN which passed the Senate last year.

Mr. President. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 455

*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 "Court Improvements Act of 1983".

TITLE I—SUPREME COURT REVIEW

REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

SEC. 101. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 102. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 103. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 104. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 105. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.

"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c)(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

(d) Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 106. (a) Section 310 of the Federal Election Campaign Act (2 U.S.C. 437h) is amended by repealing subsection (b), and redesignating subsection (c) as subsection (b).

(b) Section 2 of the Act of May 18, 1928 (25 U.S.C. 652), is amended by striking out ", with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit".

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such distinct court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "1252, 1254, 1291," and inserting in lieu thereof "1291".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 988(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

EFFECTIVE DATE

SEC. 107. The amendments made by this title shall take effect ninety days after the date of the enactment of this title, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

## TITLE II—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 201. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provisions of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits."

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 202. The following provisions of law are amended:

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(11) is repealed.

(B) Section 310 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h), as amended by section 106(a) of this Act, is further amended—

(i) by striking out "(a)" after "SEC. 310."; and

(ii) by repealing subsection (b), as redesignated by section 106(a) of this Act.

(2) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(3)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(4) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(5) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(6)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(7) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(8) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(9)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(10) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(11) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(12) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(13) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4)) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(14)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(15) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(16) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(17) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(18) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(19) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(20) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(21)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(22)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(23)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(24)(A) Section 408(i)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(25) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(26) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(27)(A) Section 3310(e) of the Internal Revenue Code of 1954 (26 U.S.C. 3310(e)) is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 6110(f)(5)) is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 6363(d)(4)) is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 7609(h)(3)) is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 (26 U.S.C. 9010(c)) is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 9011(b)(2)) is amended by striking out the last sentence.

(28)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(29) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110), is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(30) Section 10(i) of the National Labor Relations Act (29 U.S.C. 160(i)) is repealed.

(31) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(32) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(33) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(34) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by striking out the second sentence.

(35) Section 2022 of title 38, United States Code, is amended by striking out "The court shall order speedy hearing in any such case and shall advance it on the calendar.".

(36) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(37) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4)) is amended by striking out the last sentence.

(38) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(39) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(40) The matter under subheading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(41) Section 214(b) of The Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(42) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(43) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(44) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(45) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(46) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence".

(47) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(48) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than 60 days after the date the last such appeal is filed".

(49) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(50) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(51) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(52) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 203. The amendments made by this title shall not apply to cases pending on the date of the enactment of this title.

## TITLE III—JUDICIAL SURVIVORS' ANNUITIES

SHORT TITLE

SEC. 301. This title may be cited as the "Judicial Survivors' Annuities Reform Act of 1982".

ANNUITIES FOR SURVIVORS

SEC. 302. (a) Subsections (b) and (d) of section 376 of title 28, United States Code, are amended by striking out "4.5 percent" each place it appears and inserting in lieu thereof "5.0 percent".

(b) Subsection (c) of section 376 of title 28, United States Code, is amended by striking the first sentence and inserting in lieu thereof the following: "There shall also be deposited to the credit of the 'Judicial Survivors' Annuities Fund', in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts required to maintain the actuarial balance of the program as such amounts are actuarially determined on an annual basis in accordance with the provisions of subtitle C of part II of title I of the Budget and Accounting Procedures Act of 1950 (Public Law 95-595; 31 U.S.C. 68a).".

(c) Subsection (h)(1)(B) of section 376 of title 28, United States Code, is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) 10 percent of the average annual salary amount determined in accordance with the provisions of subsection (l) of this section; or

"(ii) 20 percent of such average annual salary amount, divided by the number of children; or".

(d) Subsection (h)(1)(C) of section 376 of title 28, United States Code, is amended by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) 20 percent of the average annual salary amount determined in accordance with the provisions of subsection (l) of this section; or

"(iii) 40 percent of such average annual salary amount, divided by the number of children.".

(e) Subsection (l) of section 376 of title 28, United States Code, is amended—

(1) by striking out "1¼ percent" and inserting in lieu thereof "1.5 percent"; and

(2) by striking out all after "of this subsection" in paragraph (2) and inserting in lieu thereof the following: ", except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 30 percent of such average annual salary, and that any amount determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section, if applicable.".

(f) Subsection (h)(2) of section 376 of title 28, United States Code, is amended by inserting before the period, "prior to the attainment of sixty years of age".

AVAILABILITY OF BENEFITS

SEC. 303. The benefits conferred by this title shall immediately become available to any individual becoming ellgible for an annuity under section 376 of title 28, United States Code, on or after the date upon which this title becomes effective, except that, although the rights of any judicial official electing to come within the purview of section 376 of title 28, United States Code, on or after the date upon which this title becomes effective, shall be determined exclusively under the provisions of that section as amended by this title, nothing in this title shall be interpreted to cancel, abrogate, or diminish any rights to which an individual or his or her survivors may be en-

titled by virtue of that individual having contributed to the judicial survivors annuity fund before the date upon which this title becomes effective.

RIGHT TO REVOKE ELECTION TO PARTICIPATE

SEC. 304. At any time within one hundred and eighty days after the date upon which this title becomes effective, any judicial official who has been participating in the judicial survivors annuity program created by the Judicial Survivors' Annuities Reform Act (90 Stat. 2603), shall be entitled to revoke his or her earlier election to participate in that program and thereby completely withdraw from participation in the program as reformed by this title, except that—

(a) any such revocation may be effected only by means of a writing filed with the Director of the Administrative Office of the United States Courts,

(b) any such writing shall be deemed to have become effective no sooner than the date upon which that writing is received by the Director,

(c) upon receipt of such a writing by the Director, any and all rights to survivorship benefits for such judicial official's survivors shall terminate, and all amounts credited to such judicial official's individual account, together with interest at 3 percent per annum, compounded on December 31 of each year to that date of revocation, shall thereafter be returned to that judicial official in a lump-sum refund payment, and

(d) any judicial official who effects such a revocation and who subsequently again becomes eligible and elects to join the judicial survivors annuities program created by this title under the provisions of section 376 of title 28, United States Code, as amended by this title, shall be permitted to do so only upon the redeposit of the full amount of the refund obtained under this section plus interest at 3 percent per annum, compounded on December 31 of each year from the date of the revocation until the date upon which that amount is redeposited.

Any judicial offical who fails to effect a revocation in accordance with the right conferred by this section within one hundred and eighty days after the date upon which this title becomes effective shall be deemed to have irrevocably waived the right to that revocation.

EFFECTIVE DATE

SEC. 305. This title shall become effective on the first day of the third month following the month in which it is enacted.

## TITLE IV—STATE JUSTICE INSTITUTE

SHORT TITLE

SEC. 401. This title may be cited as the "State Justice Institute Act of 1982".

DEFINITIONS

SEC. 402. As used in this title, the term—

(1) "Board" means the Board of Directors of the Institute;

(2) "Director" means the Executive Director of the Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the State Justice Institute;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this title;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 403. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in the District of Columbia or in any other State. To the extent consistent with the provisions of this title, the Institute shall exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this title;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations to government agencies concerning programs and activities relating to the administration of justice in State courts;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for the success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this title, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 404. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. The President may reject such list and request another list of individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this title.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days after the date of enactment of this title.

(6) The members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any of-

fense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this title, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 406(a).

OFFICERS AND EMPLOYEES

SEC. 405. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this title, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This title does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 406. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this title, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this title;

(4) evaluate, when appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this title to insure that the provisions of this title, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this title, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this title.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 407. (a) With respect to grants or contracts made under this title, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this title of the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this title which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 509 of this title.

(b) No funds made available by the Institute under this title, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this title shall be effective only to the exent, and in such amounts, as are provided in appropriation Acts.

(d) To insure that funds made available under this title are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 408. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this title; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this title.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this title.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 409. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 410. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this title.

RECORDS AND REPORTS

SEC. 411. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, person, or entity receiving financial assistance under this title shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 412. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this title to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AMENDMENTS TO OTHER LAWS

SEC. 413. Section 620(b) of title 28, United States Code, is amended—

(1) striking out "and" at the end of paragraph (3);

(2) striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) inserting the following new paragraph (5) at the end thereof:

"(5) Insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice.".

AUTHORIZATIONS

SEC. 414. There are authorized to be appropriated to carry out the purposes of this title, $20,000,000 for fiscal year 1984, $25,000,000 for fiscal year 1985, and $25,000,000 for fiscal year 1986.

EFFECTIVE DATE

SEC. 415. The provisions of this title shall take effect upon the date of enactment of such title.

## TITLE V—FEDERAL COURTS STUDY COMMISSION

SHORT TITLE

SEC. 501. This title may be cited as the "Federal Courts Study Act".

ESTABLISHMENT AND PURPOSES OF THE COMMISSION

SEC. 502. (a) There is hereby established a Federal Courts Study Commission on the future of the Federal Judiciary (hereafter referred to as the "Commission").

(b) The purposes of the Commission are to—

(1) study the jurisdiction of the courts of the United States;

(2) evaluate the procedures, personnel, business and administration of the courts;

(3) stimulate the examination of problems currently facing the courts;

(4) order, receive, and review reports from all dispute resolving bodies, including courts, administrative agencies, and alternative dispute resolution entities; and further, collect, and review all private and public studies concerning the effectiveness of courts of the United States, the jurisdiction of the courts and their procedures, personnel, business, and administration;

(5) report to the President, the Congress, the Judicial Conference of the United States, and the State Justice Institute, on the revisions, if any, in the Constitution and laws of the United States where the Commission, based on its study and evaluation, deems advisable; and

(6) develop a long-range plan for the future of the Federal Judiciary, including assessments involving—

(A) alternative methods of dispute resolution;

(B) the actual structure and administration of the Federal court system;

(C) the manner in which courts handle cases;

(D) methods of resolving intracircuit and intercircuit conflicts in the court of appeals; and

(E) the types of disputes resolved by the Federal courts and Federal agencies.

MEMBERSHIP OF THE COMMISSION

SEC. 503. (a) The Commission shall be composed of fourteen members appointed, within ninety days after the effective date of this title, as follows:

(1) four members appointed by the President of the United States with not more than two members from any major political party;

(2) two members of the Senate appointed by the President pro tempore of the Senate, one of whom shall be appointed upon the recommendation of the majority leader and one of whom shall be appointed upon the recommendation of the minority leader;

(3) two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon the recommendation of the majority leader and one of whom shall be appointed upon the recommendation of the minority leader;

(4) four members appointed by the Chief Justice of the United States with no more than two of such members from any major political party; and

(5) two members appointed by the Conference of Chief Justices, with no more than one such member being from any major political party.

(b) The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the jurisdiction of the Federal courts.

(c) The term of office of each Commission member shall be five years. Any member who was appointed pursuant to paragraph (2) or (3) of subsection (a) who vacates such office during his term of office with the Commission shall vacate his position on the Commission also. A member appointed to fill any such vacancy shall be appointed only for the remainder of his predecessor's term. Vacancies in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(d) The Commission shall select a Chairman and a Vice Chairman from among its members.

(e) Eight members of the Commission shall constitute a quorum.

POWERS OF THE COMMISSION

SEC. 504. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and request the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission, or any such subcommittee may deem advisable.

(b) The Administrative Office of the United States Courts, and the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information and assistance as the Commission may reasonably deem necessary to carry out its functions under this title, consistent with other applicable provisions of law governing the release of such information.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) To the extent or in such amounts as are provided in appropriation Acts, the Commission is authorized to enter into interagency agreements or contracts with the Federal Judicial Center, the National Center for State Courts, Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) The Commission is authorized to receive financial assistance from sources other than the Federal Government, including assistance from private foundations.

(f) The Commission is authorized, for the purpose of carrying out its functions and duties pursuant to this title, to establish advisory panels consisting of members either of the Commission or of the public. Such panels shall be established to provide exper-

tise and assistance in specific areas, as the Commission deems necessary.

FUNCTIONS AND DUTIES

SEC. 505. (a) The Commission shall—

(1) make a complete study of the jurisdiction of the courts of the United States and of the several States and report to the President and the Congress on such study within two years after the effective date of this title;

(2) recommend revisions to be made to the Constitution and laws of the United States as the Commission, on the basis of such study, deems advisable;

(3) collect and review studies on the effectiveness of the courts;

(4) develop a long-range plan for the judicial system;

(5) submit written reports to the President and the Congress on the condition of the judiciary, including a summary of their findings, recommendations, and conclusions annually, submitting the first such report within one year after the study concluded pursuant to paragraph (1); and

(6) make any recommendations and conclusions it deems advisable every year thereafter.

(b) The study of the jurisdiction of the courts conducted by the Commission pursuant to paragraph (1) of subsection (a) shall be completed within two years after the effective date of this title and prior to the other functions and duties provided for in this section.

COMPENSATION OF MEMBERS

SEC. 506. (a) A member of the Commission who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but such amount shall not exceed the maximum amounts authorized under section 456 of title 28, United States Code.

(b) A member of the Commission who is from the private sector shall receive $200 per diem for each day (including traveltime) during which he or she is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but such amounts shall not be in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

REPORTS

SEC. 507. (a)(1) The Commission shall transmit to the President and to the Congress, not later than two years after the effective date of this title, a study of the jurisdiction of the courts of the United States and of the several States pursuant to section 505(a)(1) of this title. The Commission shall thereafter, in keeping with its functions, annually transmit to the President and the Congress a report on the condition of the judiciary and summarize any findings, and make any recommendations and conclusions it deems advisable on the basis of its previous activities.

(2) Not later than 10 years after the effective date of this title the Commission shall submit a final report containing a detailed statement of the findings and conclusions of the study conducted pursuant to this title, together with any recommendations it deems advisable.

EXPIRATION OF THE COMMISSION

SEC. 508. The Commission shall cease to exist on the date 90 days after it transmits the final report pursuant to section 507 of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. To carry out the purposes of this title there are authorized to be appropriated $700,000 for each of the fiscal years 1984 and 1985, and $800,000 for each of the eight succeeding fiscal years 1986 through 1993.

EFFECTIVE DATE

SEC. 510. This title shall become effective on the date of enactment of this title.

## TITLE VI—INTERCIRCUIT TRIBUNAL

SHORT TITLE

SEC. 601. This title may be cited as the "Intercircuit Tribunal of the United States Courts of Appeals Act".

ESTABLISHMENT OF TRIBUNAL

SEC. 602. (a) Part I of title 28, United States Code, is amended by inserting immediately after chapter 3 the following new chapter:

"CHAPTER 4—INTERCIRCUIT TRIBUNAL OF THE UNITED STATES COURTS OF APPEALS

"Sec.
"61. Establishment and composition of Intercircuit Tribunal; sitting panels.
"62. Establishment and duties of the Chancellor of the United States.
"63. Principal office and terms.
"64. Seal.
"65. Sessions.

"§ 61. Establishment and composition of Intercircuit Tribunal; sitting panels

"(a)(1) There shall be established an Intercircuit Tribunal of the United States Courts of Appeals which shall be composed of the Chancellor of the United States and twenty-six circuit judges who are in regular active service or who are senior judges. The circuit council of each circuit shall designate two judges to serve on the Tribunal for a period of not more than five years from the date of such designation.

"(2) Cases and controversies shall be heard and determined by sitting panels, composed of five judges on each panel, as designated by rule of the court, from among judges serving on the Intercircuit Tribunal, except that no two judges from the same circuit may be designated to serve on a sitting panel at the same time. Judges shall be designated by a lottery system to serve on sitting panels in such a manner that all of the judges on the Tribunal hear and determine cases that are representative of all types of cases reviewed by the Tribunal. The judge on the sitting panel who is senior in service shall preside over that panel.

"(b) Rules of procedure shall be promulgated and published by vote of a majority of the full membership of the Intercircuit Tribunal before any cases are heard.

"(c) In the event of the death, resignation, or disability of any judge designated under subsection (a), the circuit council from which such judge had been selected shall, subject to the provisions of subsection (a), fill the vacancy for the remainder of the period for which such judge was designated to serve.

"§ 62. Establishment and duties of the Chancellor of the United States

"(a)(1) There shall be a Chancellor of the United States appointed by the Chief Justice from amongst judges on active duty as members of a United States Circuit Court of Appeals. The President shall appoint a replacement for the vacated circuit judgeship.

"(2) The Chancellor shall be subject to removal by the Chief Justice.

"(3)(A) The Chancellor may return to his former position as a judge of the United States Circuit Court of Appeals and serve in the same manner as he did prior to becoming Chancellor if he is dismissed, or voluntarily vacates such position.

"(B) The time spent as Chancellor shall be treated as years of judicial service for purposes of such judge's seniority status.

"(C) If such Chancellor returns to his former circuit judgeship position, such circuit shall be permitted to have its authorized number of judgeships plus the one additional judgeship resulting from the return of the former Chancellor until such time as one judge leaves the circuit by assuming senior status, by retirement, or death.

"(4) The Chancellor shall take the oath or affirmation as provided in section 453 of title 28, United States Code, before performing the duties of his office.

"(5) The Chancellor shall be provided with travel expenses pursuant to section 456 of title 28, United States Code, to the same extent such expenses are provided each Justice or judge of the United States.

"(b) The Chancellor shall serve as a member of the Intercircuit Tribunal and shall be responsible for the administration of the court.

"(c) The Chancellor shall supervise all administrative matters assigned to him by the Chief Justice and, as requested by the Chief Justice, assist with nonjudicial functions of the position of Chief Justice including administrative duties.".

"§ 63. Principal office and terms

"The principal office of the Intercircuit Tribunal of the United States Courts of Appeals shall be in the District of Columbia, but the Tribunal may hold court at such times and places within the United States as the Tribunal may fix by rule.

"§ 64. Seal

"The Intercircuit Tribunal of the United States Courts of Appeals shall have a seal which shall be judicially noticed.

"§ 65. Sessions

"The time and place of the sessions of the Intercircuit Tribunal of the United States Courts of Appeals shall be prescribed by rule of the court.".

(b) The analysis of part I of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 3 the following new item:

"4. Intercircuit Tribunal of the United States Courts of Appeals.. 61".

OFFICERS AND EMPLOYEES

SEC. 603. (a) Part III of title 28, United States Code, is amended by inserting immediately after chapter 47 the following new chapter:

"CHAPTER 48—INTERCIRCUIT TRIBUNAL OF THE UNITED STATES COURTS OF APPEALS

"Sec.
"731. Clerk and employees.
"732. Marshal and bailiffs.

"§ 731. Clerk and employees

"(a) The Intercircuit Tribunal of the United States Courts of Appeals may appoint a clerk who shall be subject to removal by the Tribunal. The Tribunal may appoint or authorize the appointment of such other officers and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"(b) The officers and employees of the Tribunal shall be subject to removal by the Tribunal or, if the Tribunal so determines, shall, with the approval of the Tribunal, be subject to removal by the clerk or other officer who appointed them.

"(c) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by the clerk and shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by the Director.

"§ 732. Marshal and bailiffs

"(a) The Intercircuit Tribunal of the United States Courts of Appeals may request the services of the marshal of the court of appeals in the judicial district in which the Tribunal is sitting. The marshal shall attend the Tribunal at its sessions, take charge of all property of the United States used by the Tribunal or its employees, and perform such other duties as the Tribunal may direct. The marshal, with the approval of the Tribunal, may request necessary bailiffs from the court of appeals which the marshal serves. Such bailiffs shall attend the Tribunal, preserve order, and perform such other necessary duties as the Tribunal or the marshal may direct.".

(b) The analysis of part III of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 47 of such title the following new item:

"48. Intercircuit Tribunal of the United States Courts of Appeals.. 731".

JURISDICTION AND REVIEW

SEC. 604. (a)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Referral to Intercircuit Tribunal of the United States Courts of Appeals

"(a) After granting or denying certiorari or noting probable jurisdiction of an appeal in cases before it, or while an application for review of a case by appeal or by writ of certiorari is pending in the Supreme Court, the Supreme Court may refer to the Intercircuit Tribunal of the United States Courts of Appeals any such case which is before the Supreme Court, by the affirmative vote of five of its members. The Supreme Court shall direct the Intercircuit Tribunal of the United States Courts of Appeals to decide any case so referred.

"(b) Any judgment of the Intercircuit Tribunal of the United States Courts of Appeals, in any case referred to the Tribunal under subsection (a), may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any such case before or after rendition of judgment or decree by the Tribunal.".

(2) The analysis of chapter 81 of title 28. United States Code, is amended by adding at the end thereof the following new item:

"1259. Referral to Intercircuit Tribunal of the United States Courts of Appeals.".

(b)(1) Part IV of title 28, United States Code, is amended by adding immediately after chapter 81 of such title the following new chapter:

"CHAPTER 82—INTERCIRCUIT TRIBUNAL OF THE UNITED STATES COURTS OF APPEALS

"Sec.
"1271. Jurisdiction.
"1272. Finality of decisions.

"§ 1271. Jurisdiction

"The Intercircuit Tribunal of the United States Courts of Appeals shall have jurisdiction of cases referred to the Tribunal by the Supreme Court.

"§ 1272. Finality of decisions

"(a) The Intercircuit Tribunal of the United States Courts of Appeals may deny review in any case referred to the Tribunal by the Supreme Court which is subject to review by writ of certiorari, unless the Tribunal is directed by the Supreme Court to decide the case.

"(b) Unless modified or overruled by the Supreme Court, decisions of the Intercircuit Tribunal of the United States Courts of Appeals other than decisions denying review under subsection (a) shall be binding on all courts of the United States and, with respect to questions arising under the Constitution, laws, or treaties of the United States, on all other courts.".

(2) The analysis of part IV of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 81 of such title the following new item:

"82. Intercircuit Tribunal of the United States Courts of Appeals.. 1271".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 605. (a) Section 1913 of title 28, United States Code, is amended to read as follows:

"§ 1913. Courts of appeals; Intercircuit Tribunal of the United States Courts of Appeals

"The fees and costs to be charged and collected in each court of appeals and in the Intercircuit Tribunal of the United States Courts of Appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and, in the case of the courts of appeals, shall be uniform for all the courts.".

(b) The item relating to section 1913 of title 28, United States Code, in the analysis of chapter 123 of such title, is amended to read as follows:

"1913. Courts of appeals; Intercircuit Tribunal of the United States Courts of Appeals.".

(c) The first paragraph of section 2072 of title 28, United States Code, is amended by inserting after "courts of appeals of the United States" the following: ", and of the Intercircuit Tribunal of the United States Courts of Appeals".

(d) Section 2106 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the Intercircuit Tribunal of the United States Courts of Appeals,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

EFFECTIVE DATE; REPORTS; TERMINATION OF INTERCIRCUIT TRIBUNAL

SEC. 607. (a) This title, and the amendments made by this title, shall take effect on October 1, 1983.

(b) Section 604(d) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(5) lay before Congress annually statistical tables and other information which will accurately reflect the business which has come before the Intercircuit Tribunal of the United States Courts of Appeals.".

(c) The Intercircuit Tribunal of the United States Courts of Appeals, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress, not later than October 1, 1987, a comprehensive report on its activities from the effective date of this title.

(d)(1) The Intercircuit Tribunal of the United States Courts of Appeals shall terminate on September 30, 1988.

(2) This title, and the amendments made by this title, shall cease to be effective on September 30, 1988.●